

ATTACHMENT 30

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Kamzalow, Michelle

April 23, 2014

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

IN RE: PROCESSED EGG PRODUCTS)
ANTITRUST LITIGATION)
)
) MDL NO. 2002
) 08-md-02002
_____)
THIS DOCUMENT RELATES TO)
KRAFT FOODS GLOBAL, INC., et al) HIGHLY CONFIDENTIAL
v. United Egg Producers, Inc.,)
et al No. 2:12-cv-00088-GP)

- - -

Deposition of MICHELLE KAMZALOW

Wednesday, April 23, 2014

- - -

The video deposition of MICHELLE KAMZALOW,
called as a witness by the Defendants, pursuant to
Notice and the Federal Rules of Civil Procedure
pertaining to the taking of depositions, taken before
me, the undersigned, Deborah L. Endler, a Notary
Public in and for the Commonwealth of Pennsylvania, at
the law offices of Buchanan Ingersoll & Rooney, 301
Grant Street, 20th Floor, One Oxford Centre,
Pittsburgh, Pennsylvania, 15219, commencing at 9:04
o'clock a.m., the day and date above set forth.

- - -

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<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Ahern & Associates:</p> <p>4 Patrick Ahern, Esquire</p> <p>5 70 West Madison Street, Suite 1400</p> <p>6 Chicago, Illinois 60602</p> <p>7 patrick.ahern@ahernandassociatespc.com</p> <p>8</p> <p>9 On behalf of the Defendant Michael Foods:</p> <p>10 Stinson Leonard Street, LLP:</p> <p>11 Peter J. Schwingler, Esquire</p> <p>12 150 South Fifth Street, Suite 2300</p> <p>13 Minneapolis, Minnesota 55402</p> <p>14 peter.schwingler@stinsonleonard.com</p> <p>15 - - -</p> <p>16 ALSO PRESENT: Sabrina J. Hudson, Esquire (Heinz)</p> <p>17 Brandon Wilczek, Videographer</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 EXHIBIT INDEX (continued)</p> <p>2 KAMZALOW DEPOSITION EXHIBITS MARKED</p> <p>3 Exhibit 9 E-mail string with the bates range 131</p> <p>4 Heinz 00010177 through 181</p> <p>5 Exhibit 10 Case Management Order No. 10 139</p> <p>6 Exhibit 11 Auctions 141</p> <p>7 Exhibit 12 E-mail bates number Heinz 00012539 149</p> <p>8 Exhibit 13 E-mail with the bates number Heinz 156</p> <p>9 00010241</p> <p>10 Exhibit 14 E-mail with the bates number Heinz 161</p> <p>11 00010261</p> <p>12 Exhibit 15 E-mail with the bates number Heinz 164</p> <p>13 00015096</p> <p>14 Exhibit 16 E-mail with the bates number Heinz 167</p> <p>15 00009881</p> <p>16 Exhibit 17 E-mail with the bates number Heinz 168</p> <p>17 00009883</p> <p>18 Exhibit 18 E-mail with the bates numbers Heinz 170</p> <p>19 00010498</p> <p>20 Exhibit 19 E-mail string with the bates range Heinz 172</p> <p>21 00015076 to 77</p> <p>22 Exhibit 20 E-mail with the bates number Heinz 176</p> <p>23 00016776 to 777</p> <p>24 Exhibit 21 E-mail string with the bates range Heinz 185</p> <p>25 00013117 through 120</p>
<p style="text-align: right;">3</p> <p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE:</p> <p>3 Mr. Schwingler 8</p> <p>4 Mr. Ahern 261</p> <p>5 Mr. Schwingler 276</p> <p>6</p> <p>7 - - -</p> <p>8</p> <p>9 EXHIBIT INDEX</p> <p>10 KAMZALOW DEPOSITION EXHIBITS MARKED</p> <p>11 Exhibit 1 Notice of Deposition 11</p> <p>12 Exhibit 2 E-mail from Douglas Patton on February 25</p> <p>13 27th, 2013 to Jason Takenouchi</p> <p>14 Exhibit 3 E-mail bearing the bates number Heinz 42</p> <p>15 00020738</p> <p>16 Exhibit 4 Exhibit 4 is an e-mail, with the bates 50</p> <p>17 number Heinz 00010471</p> <p>18 Exhibit 5 Egg Products Source Plan 70</p> <p>19 Exhibit 6 E-mail and attachment beginning with 119</p> <p>20 the bates number Heinz 00010559</p> <p>21 Exhibit 7 E-mail with the bates number Heinz 124</p> <p>22 00013386</p> <p>23 Exhibit 8 E-mail bearing the bates number Heinz 128</p> <p>24 00024975</p> <p>25</p>	<p style="text-align: right;">5</p> <p>1 EXHIBIT INDEX (continued)</p> <p>2 KAMZALOW DEPOSITION EXHIBITS MARKED</p> <p>3 Exhibit 22 An e-mail string, Heinz 00010592 to 93 189</p> <p>4 Exhibit 23 E-mail with the bates number Heinz 195</p> <p>5 00020160</p> <p>6 Exhibit 24 E-mail string with the bates number 196</p> <p>7 Heinz 00017483 to 484</p> <p>8 Exhibit 25 E-mail bates number Heinz 00009891 198</p> <p>9 Exhibit 26 Bates number Heinz 00015430, through 432 205</p> <p>10 Exhibit 27 E-mail with the bates number Heinz 209</p> <p>11 00016433</p> <p>12 Exhibit 28 E-mail with the bates number Heinz 218</p> <p>13 00011768</p> <p>14 Exhibit 29 E-mail with the bates number Heinz 225</p> <p>15 00009229</p> <p>16 Exhibit 30 Bates number Heinz 00000635 230</p> <p>17 Exhibit 31 E-mail with the bates number Heinz 235</p> <p>18 00020798 (not attached)</p> <p>19 Exhibit 32 Document with the bates number Heinz 236</p> <p>20 00021145 through 21148</p> <p>21 Exhibit 33 E-mail with the bates number Heinz 238</p> <p>22 00017815</p> <p>23 Exhibit 34 E-mail string with the bates range Heinz 246</p> <p>24 00012960 through 964</p> <p>25</p>

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<p style="text-align: right;">6</p> <p>1 EXHIBIT INDEX (continued)</p> <p>2 KAMZALOW DEPOSITION EXHIBITS MARKED</p> <p>3 Exhibit 35 E-mail with the bates number Heinz 244</p> <p>4 00012994</p> <p>5 Exhibit 36 E-mail string with the bates numbers 246</p> <p>6 Heinz 00013280 through 13283</p> <p>7 Exhibit 37 E-mail string with the bates range Heinz 249</p> <p>8 00012779 through 12782</p> <p>9</p> <p>10 ---</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">8</p> <p>1 Inc., C&S Wholesale Grocers, Inc., Heinz, LLP --</p> <p>2 H.J. Heinz Company, LP, and Roundy's Supermarket,</p> <p>3 Inc. and for the witness.</p> <p>4 (Witness first duly sworn.)</p> <p>5 MICHELLE KAMZALOW</p> <p>6 called as a witness by the Defendant, having been</p> <p>7 first duly sworn, as hereinafter certified, was</p> <p>8 deposed and said as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. SCHWINGLER:</p> <p>11 Q Good morning, Ms. Kamzalow. My name is</p> <p>12 Pete Schwinger. I represent the Defendant Michael</p> <p>13 Foods in this lawsuit.</p> <p>14 Could I have you just state and spell your</p> <p>15 name for the record?</p> <p>16 A Sure, Michelle Kamzalow, M-i-c-h-e-l-l-e,</p> <p>17 Kamzalow, K-a-m-z-a-l-o-w.</p> <p>18 Q Are you currently employed by Heinz?</p> <p>19 A Yes.</p> <p>20 Q What's your current title?</p> <p>21 A Senior buyer.</p> <p>22 Q And this is your first deposition; correct?</p> <p>23 A Yes.</p> <p>24 Q I'll just go through the procedures briefly</p> <p>25 before we get started then.</p>
<p style="text-align: right;">7</p> <p>1 P-R-O-C-E-E-D-I-N-G-S</p> <p>2 VIDEOGRAPHER: My name is Brandon Wilczek</p> <p>3 of Henderson Legal Services. The date today is</p> <p>4 April 23rd, 2014 and the time is approximately</p> <p>5 9:04 a.m.</p> <p>6 This deposition is being held in the office</p> <p>7 of Buchanan Ingersoll & Rooney, located at 301</p> <p>8 Grant Street, 20th floor, Pittsburgh, PA, 15219.</p> <p>9 The caption of this case is IN RE:</p> <p>10 Processed Egg Products Antitrust Litigation, in</p> <p>11 the United States District Court for the Eastern</p> <p>12 District of Pennsylvania, Case No. MDL-2002</p> <p>13 08-MD-02002.</p> <p>14 The name of the witness is Michelle</p> <p>15 Kamzalow.</p> <p>16 At this time the attorneys will identify</p> <p>17 themselves and the parties they represent, after</p> <p>18 which our court reporter, Deborah Ender of</p> <p>19 Henderson Legal Services, will swear in the</p> <p>20 witness and we can proceed.</p> <p>21 MR. SCHWINGLER: Peter Schwinger of</p> <p>22 Stinson Leonard Street, LLP, on behalf of</p> <p>23 Defendant Michael Foods.</p> <p>24 MR. AHERN: Patrick Ahern on behalf of</p> <p>25 Direct Action Plaintiffs, Winn-Dixie Stores,</p>	<p style="text-align: right;">9</p> <p>1 This is, there is a court reporter here and</p> <p>2 a videographer. Do you understand that your testimony</p> <p>3 today can be used at trial, if necessary?</p> <p>4 A Yes.</p> <p>5 Q And that you are under oath?</p> <p>6 A Yes.</p> <p>7 Q One thing that's very important when we</p> <p>8 have a written record as well is that you answer the</p> <p>9 questions verbally, rather than by nodding your head</p> <p>10 or saying words like "uh-huh" or "huh-huh," which</p> <p>11 don't translate very well to a transcript. You</p> <p>12 understand?</p> <p>13 A Yes.</p> <p>14 Q And if, you know, people slip on that all</p> <p>15 the time, we'll give you a reminder if we need to.</p> <p>16 You can take a break whenever you need.</p> <p>17 The only thing I ask is that we don't take breaks</p> <p>18 while I have a question pending.</p> <p>19 If I ask a question and you don't</p> <p>20 understand it, please ask me for clarification. I'm</p> <p>21 happy to provide it. If you do answer a question,</p> <p>22 then I'll assume that you understand it. Is that</p> <p>23 fair?</p> <p>24 A Yes.</p> <p>25 Q And the last thing is to answer fully and</p>

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<p style="text-align: right;">10</p> <p>1 to the best of your knowledge. Is there any reason 2 you can't do that today?</p> <p>3 A No.</p> <p>4 Q You are not on any medications that would 5 prevent you from answering truthfully?</p> <p>6 A No.</p> <p>7 Q Are you aware that Heinz has filed a 8 lawsuit against a number of companies, including the 9 United Egg Producers, United States Egg Marketers and 10 a number of egg producers?</p> <p>11 A Yes.</p> <p>12 Q What is your understanding of the 13 allegations of the lawsuit?</p> <p>14 A My understanding is that there is 15 antitrust, I guess allegations, and that it was due to 16 our limit of supply that caused prices to increase.</p> <p>17 Q Do you have any, could you provide any more 18 detail on what the allegations are about limiting 19 supply?</p> <p>20 A That there were probably exports, more 21 exports than normal whenever there is a limited supply 22 in the U.S.</p> <p>23 I know there is more, but I can't think of 24 it right now.</p> <p>25 I know exports was one thing that was above</p>	<p style="text-align: right;">12</p> <p>1 A Yes.</p> <p>2 Q When did you see it?</p> <p>3 A I saw it this morning.</p> <p>4 Q Have you seen it prior to this morning?</p> <p>5 A No.</p> <p>6 Q If you could turn to the page beginning 7 with Exhibit A, which is about the fifth or sixth page 8 in.</p> <p>9 A Okay.</p> <p>10 Q Where it says definitions?</p> <p>11 A Yeah.</p> <p>12 Q Do you recall reviewing this page when you 13 saw this document this morning?</p> <p>14 A No, I don't think I saw this page.</p> <p>15 Q If you look at paragraph 1, do you see 16 where it defines the term "Heinz"?</p> <p>17 A Yes.</p> <p>18 Q To mean Plaintiff, H.J. Heinz and all 19 predecessors, successors, subsidiaries, divisions, 20 parents, et cetera. Do you understand that when you 21 are testifying today on behalf of Heinz, you are also 22 testifying on behalf of any relevant subsidiaries or 23 affiliated companies?</p> <p>24 A Yes.</p> <p>25 Q At the bottom of page 4 in Exhibit A, do</p>
<p style="text-align: right;">11</p> <p>1 normal.</p> <p>2 Overall, I guess with guidelines on how 3 much room, like cage space for a chicken could have, 4 so that was limiting expansion of, you know, having 5 more chickens to lay eggs is part of it as well.</p> <p>6 Q So exports and cage space. Anything else 7 that you recall being connected to the supply 8 management allegations?</p> <p>9 A I know there was something else. I think. 10 I believe it just had to do with the UEP 11 certification, you know, with the cage space. I feel 12 like there is a third thing, but I'm not thinking of 13 it off the top of my head right now.</p> <p>14 Q When did you become aware of this lawsuit?</p> <p>15 A I think it was maybe about six months ago 16 or so I was contacted about it. Might have been a 17 little bit longer than that.</p> <p>18 (THEREUPON, Deposition Exhibit No. 1 was 19 marked for identification.)</p> <p>20 Q Handing you what's been marked as Exhibit 21 1.</p> <p>22 If you could just take a look at front page 23 of that document and if you need to skim it, that's 24 fine, but my question will simply be whether you've 25 seen this document before.</p>	<p style="text-align: right;">13</p> <p>1 you see where it says deposition topics?</p> <p>2 A Yes.</p> <p>3 Q And then the remainder of the document has 4 approximately 30, 32 topics listed.</p> <p>5 A Yes.</p> <p>6 Q Did you review these topics before coming 7 to the deposition this morning?</p> <p>8 A Yes.</p> <p>9 Q And are you prepared to testify on these 10 topics on behalf of Heinz?</p> <p>11 A Yes.</p> <p>12 Q Other than reviewing this document this 13 morning, did you do anything to prepare for today's 14 deposition?</p> <p>15 A Yes, well, I met with Patrick and Sabrina 16 yesterday.</p> <p>17 Q Did you meet with anyone prior to yesterday 18 to prepare for this deposition?</p> <p>19 A No.</p> <p>20 Q I don't want you to tell me anything about 21 what your attorneys told you, but just generally 22 speaking, did you review any documents when you met 23 with them yesterday?</p> <p>24 A Yes.</p> <p>25 Q About how many?</p>

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<p style="text-align: right;">14</p> <p>1 A Oh, I'd say about 20.</p> <p>2 Q And are those documents that they gave to</p> <p>3 you?</p> <p>4 A They showed them to me.</p> <p>5 Q Did you bring any documents that you went</p> <p>6 out and found on your own?</p> <p>7 A No.</p> <p>8 Q Did you review any other documents on your</p> <p>9 own apart from the documents you reviewed with your</p> <p>10 attorneys?</p> <p>11 A No, I mean I tried to -- we were kind of,</p> <p>12 made me think about a couple things and I went back</p> <p>13 and just looked at a couple of things I had in my, on</p> <p>14 my computer. But we talked about them.</p> <p>15 Q And did you talk to any other Heinz</p> <p>16 employees about the topics that are listed in Exhibit</p> <p>17 1?</p> <p>18 A Yes, we talked with Mauricio Sirgo</p> <p>19 yesterday.</p> <p>20 Q How long did you talk with Mauricio Sirgo?</p> <p>21 A About a half hour or so.</p> <p>22 Q What did you talk to Mauricio about?</p> <p>23 A Basically just our history of the time when</p> <p>24 I was a buyer, you know, who we purchased from, what</p> <p>25 we bought.</p>	<p style="text-align: right;">16</p> <p>1 like a piece of this, it wasn't like the whole thing.</p> <p>2 So that's why I didn't recognize it before.</p> <p>3 MR. AHERN: And there was other information</p> <p>4 as well.</p> <p>5 Q So remind me again, what your current title</p> <p>6 is, I think you said senior buyer?</p> <p>7 A That's right.</p> <p>8 Q And how long have you been the senior buyer</p> <p>9 at Heinz?</p> <p>10 A I've been a senior buyer since, I'd say,</p> <p>11 2009, I think. Yeah, 2009.</p> <p>12 Q And what does a senior buyer do?</p> <p>13 A Senior buyer is responsible for primarily</p> <p>14 negotiating contracts with suppliers for Heinz for</p> <p>15 whatever portfolios I'm responsible with, as well as</p> <p>16 kind of supporting the supply chain for our factories.</p> <p>17 Q What products are you currently responsible</p> <p>18 for?</p> <p>19 A I'm currently responsible for all dairy</p> <p>20 products.</p> <p>21 Q Does dairy include egg products?</p> <p>22 A No.</p> <p>23 Q Before you were a senior buyer -- actually</p> <p>24 between 2009 and present, as a senior buyer, have you</p> <p>25 ever been responsible for egg product purchases?</p>
<p style="text-align: right;">15</p> <p>1 Q When you say buyer, are you referring to</p> <p>2 egg product buyer?</p> <p>3 A Yes, yes.</p> <p>4 Q And is Mr. Sirgo also an egg product buyer?</p> <p>5 A He was, and he was my manager when I was</p> <p>6 the egg buyer.</p> <p>7 Q Other than Mr. Sirgo, did you speak with</p> <p>8 any other employees of Heinz when preparing for this</p> <p>9 deposition?</p> <p>10 A No.</p> <p>11 Q Did you speak with any former employees of</p> <p>12 Heinz when preparing for this deposition?</p> <p>13 A No.</p> <p>14 Q How about any consultant or independent</p> <p>15 contractors of Heinz?</p> <p>16 A No.</p> <p>17 Q Other than your attorneys here and</p> <p>18 Mr. Sirgo, did you speak to anybody at all about your</p> <p>19 preparation for this deposition today?</p> <p>20 A No.</p> <p>21 MR. AHERN: Just wanted to let you know she</p> <p>22 did receive information from Ms. Hudson, you</p> <p>23 know, as part of the preparation process.</p> <p>24 MR. SCHWINGLER: Okay.</p> <p>25 A Yes. I did receive this, but it was just</p>	<p style="text-align: right;">17</p> <p>1 A No.</p> <p>2 Q Have you been the senior buyer for dairy</p> <p>3 products since 2009?</p> <p>4 A No, I had other jobs, too.</p> <p>5 Q What other products did you have</p> <p>6 responsibility over during that period?</p> <p>7 A I did have, actually was on an SAP project,</p> <p>8 which had nothing to do with any specific commodity</p> <p>9 during that time.</p> <p>10 And for about two months when I came back</p> <p>11 from my maternity leave I was responsible for pork and</p> <p>12 eggs as well, actually for two months. So actually I</p> <p>13 should be corrected.</p> <p>14 So I came back from maternity leave, I only</p> <p>15 was doing this job for two months. I was doing eggs,</p> <p>16 pork and seafood and then I went to the SAP role. So</p> <p>17 it was only a little bit of time.</p> <p>18 Q When you were responsible for eggs for that</p> <p>19 two month period, do you know what year that was?</p> <p>20 A It was 2011.</p> <p>21 Q Just so we have a clear record, what is</p> <p>22 SAP?</p> <p>23 A Heinz is converting to an SAP system, just</p> <p>24 a planning logistic system and so they just needed</p> <p>25 people from the business to help marry those two</p>

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<p style="text-align: right;">18</p> <p>1 functions together.</p> <p>2 Q And can you just explain what the letters</p> <p>3 S, A and P stand for?</p> <p>4 A Oh, that's a good question. It's the name</p> <p>5 of the company, the computer program. So I don't</p> <p>6 really honestly remember what it was.</p> <p>7 Q Generally speaking, what does the SAP</p> <p>8 program do?</p> <p>9 A So it's my understanding that it's a</p> <p>10 manugistic software that coordinates supply chain from</p> <p>11 holding vendor information, and supply production</p> <p>12 information, quality information, logistics, planning,</p> <p>13 everything like that, just to help with production and</p> <p>14 getting products, like, you know, raw materials</p> <p>15 ordered, produced, sent out and then just tracks</p> <p>16 everything.</p> <p>17 Q And when did Heinz switch to SAP?</p> <p>18 A It's a global project that started</p> <p>19 probably, six, seven years ago and so they -- I was</p> <p>20 part of the team that was helping Canada back in 2011</p> <p>21 and they launched in 2012.</p> <p>22 Q And is the SAP program how Heinz currently</p> <p>23 tracks its egg product purchases?</p> <p>24 A Well, for the U.S., it just launched the</p> <p>25 31st of March. So I wouldn't say, I mean as of March</p>	<p style="text-align: right;">20</p> <p>1 A Yes.</p> <p>2 Q -- would you ever interact with engineers</p> <p>3 or other personnel from potential vendors to make sure</p> <p>4 that they were aware of the specifications?</p> <p>5 A I really wouldn't work with their</p> <p>6 engineering team. I would perhaps work with the</p> <p>7 salesperson.</p> <p>8 However, because of the value creation</p> <p>9 role, kind of more of an in-between, the buyers have</p> <p>10 the relationship with the salespeople and Heinz R&D</p> <p>11 would have the relationship with the sales R&D person.</p> <p>12 It would not really be normal for me to work with</p> <p>13 them.</p> <p>14 Q What years were you value creation buyer?</p> <p>15 A 2009 to 2011.</p> <p>16 Q So that overlapped your tenure as senior</p> <p>17 buyer?</p> <p>18 A Right, right, so still a level, you just</p> <p>19 did different activities, but you are still a senior</p> <p>20 buyer, yeah.</p> <p>21 Q And what products were you responsible for</p> <p>22 as a value creation buyer from 2009 to 2011?</p> <p>23 A I really didn't have a portfolio. I was</p> <p>24 really focused on the brand teams and R&D. I focused</p> <p>25 on just helping the frozen businesses.</p>
<p style="text-align: right;">19</p> <p>1 31st, yes. But before that they were on an older</p> <p>2 system.</p> <p>3 Q Before you became senior buyer in 2009,</p> <p>4 what was your -- actually, let me -- Withdrawn.</p> <p>5 When did you first start working for Heinz?</p> <p>6 A June 2000.</p> <p>7 Q So prior to being the senior egg buyer in</p> <p>8 2009, what was your title?</p> <p>9 A I was actually a value creation buyer.</p> <p>10 Q What does that mean?</p> <p>11 A That means that I was a person that worked</p> <p>12 with R&D and really supported new product development</p> <p>13 and cost out, kind of worked in between the</p> <p>14 procurement buyers and R&D to help them launch</p> <p>15 products.</p> <p>16 Q So in your role as value creation buyer,</p> <p>17 you interacted with the research and development</p> <p>18 personnel for Heinz?</p> <p>19 A Yes.</p> <p>20 Q Did you have any interactions with research</p> <p>21 and development personnel for the suppliers?</p> <p>22 A Sure. Oh, wait, let me -- can you clarify</p> <p>23 exactly what you meant by that?</p> <p>24 Q Sure, if Heinz needs a product to have a</p> <p>25 certain specification --</p>	<p style="text-align: right;">21</p> <p>1 Q During that time frame did you work as a</p> <p>2 value creation buyer for egg products?</p> <p>3 A No.</p> <p>4 Q Prior to being a senior buyer in 2009, what</p> <p>5 was your role at Heinz?</p> <p>6 A I was a buyer and I had responsibility for</p> <p>7 eggs, turkey, pasta, rice and pork.</p> <p>8 Q What years were you responsible as a buyer</p> <p>9 for eggs?</p> <p>10 A Started in, I think May 2007. So May 2007</p> <p>11 until December 2008.</p> <p>12 Q And as the buyer for eggs, from May 2007 to</p> <p>13 December 2008, did you interact frequently with egg</p> <p>14 product vendors?</p> <p>15 A Yes.</p> <p>16 Q And were you involved in price negotiations</p> <p>17 for egg products during that time frame?</p> <p>18 A Yes.</p> <p>19 Q Before you became the buyer for eggs and</p> <p>20 turkey, pasta, rice and pork in May 2007, what was</p> <p>21 your role with Heinz?</p> <p>22 A I was a food technologist in our research</p> <p>23 development department.</p> <p>24 Q Can you describe what your job</p> <p>25 responsibilities were as a food technologist?</p>

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<p style="text-align: right;">22</p> <p>1 A Sure. Primarily my role right before going 2 to procurement was working on cost savings 3 opportunities. So just working on different, still in 4 like frozen businesses, our meals and snacks, 5 reformulating them for better costs. 6 Q What years were you the food technologist? 7 A From about 2002 to 2007. 8 Q When you served as a food technologist for 9 Heinz, did you ever have any projects that involved 10 egg products? 11 A I would say yes. 12 Q Can you give me an example, if you remember? 13 A So an example may have been, maybe like 14 approving an alternate supplier for powdered eggs. We 15 didn't use a whole lot of eggs in the frozen business, 16 but we did use some powdered eggs in our process, so 17 we may have looked at, this is supplier A, can we 18 switch to supplier B., something like that. 19 Q What factors would have influenced whether 20 you would switch suppliers for powdered eggs? 21 A Usually like, because I was in the cost 22 savings team, it would have been driven by cost 23 savings opportunity. 24 Q Did you consider whether that supplier 25 could meet certain specifications for the product?</p>	<p style="text-align: right;">24</p> <p>1 Q Was that also in the frozen food 2 department? 3 A Yes. 4 Q Was your role roughly the same? 5 A It was, yes. 6 Q Did you have any titles or roles at Heinz 7 prior to being an associate food technologist? 8 A Nope. 9 Q I'd just like to talk about your 10 educational background briefly. Do you have 11 postsecondary education? 12 A I do. I have a food science degree and 13 also a master's in business. 14 Q Where did you attend college? 15 A Food science went to Penn State University. 16 And my M.B.A. is from Waynesburg College. 17 Q After you graduated from Penn State, and 18 before you were an associate food technologist at 19 Heinz, did you have any other jobs? 20 A No. 21 Q So were you hired out of college to work at 22 Heinz? 23 A I was. 24 Q Do you currently live here in Pittsburgh? 25 A Yes.</p>
<p style="text-align: right;">23</p> <p>1 A Right, absolutely. They have to meet our 2 specifications in order to be considered. 3 Q Would you conduct taste tests of the other 4 suppliers's product to make sure that it resulted in 5 what you were looking for as a company? 6 A Right, yeah. 7 Q Did you conduct any other types of tests? 8 A Probably just making up the finished 9 product, what it would be used in, and tasting not 10 only the product itself, but finished product as well. 11 Q When you conducted a taste test of the 12 finished product, would you have consumer focus group 13 taste the product or would it be internal to Heinz? 14 A Usually internal. 15 Q And from '02 to '07 when you were the food 16 technologist, were you responsible only for frozen 17 products? 18 A Yes. 19 Q So you, for example, wouldn't have been 20 involved in desserts? 21 A No, only if it was like a Smart Ones 22 desserts. Smart Ones has some desserts. 23 Q Prior to your tenure as a food 24 technologist, what was your role at Heinz? 25 A Associate food technologist.</p>	<p style="text-align: right;">25</p> <p>1 (THEREUPON, Deposition Exhibit 2 was marked 2 for identification.) 3 Q Hand you what's been marked as Exhibit 2. 4 You are free to review the document. 5 I'll just state for the record Exhibit 2 is 6 an e-mail string, including an e-mail from Douglas 7 Patton on February 27th, 2013 to Jason Takenouchi with 8 the subject line "Re: Egg Antitrust Litigation, 9 Plaintiff's Transaction Data." 10 And on that document, it lists the, under 11 Winn-Dixie Plaintiffs, the transaction data on the 12 joint document depository, and identifies the document 13 with the bates number HEINZ 00029259. 14 And the other part of Exhibit 2 is a 15 printout of the first page of the document produced as 16 an excel spread sheet, Heinz 00029259. 17 Looks like the first two pages, actually. 18 A Uh-huh. 19 Q Ms. Kamzalow, I'm just going to ask you 20 some questions about the column headers on this 21 document. 22 First of all, did you review this document 23 or this spread sheet before today's deposition? 24 A No. 25 Q Do you recognize the terms on this spread</p>

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<p style="text-align: right;">26</p> <p>1 sheet on the column headers?</p> <p>2 A I do. Well, some of them.</p> <p>3 Q Does this resemble what you would, the type</p> <p>4 of document you would have used as an egg buyer to</p> <p>5 keep track of purchases?</p> <p>6 A I personally am not responsible to keep</p> <p>7 track of purchases, unless something went wrong then I</p> <p>8 would have to go back and look at them. I'm more on</p> <p>9 the figuring out the price before we make any</p> <p>10 transactions.</p> <p>11 Q Sure. What we'll do is go through briefly</p> <p>12 what the column headers are and if you know what the</p> <p>13 terms mean, then I'll ask you some questions about</p> <p>14 those. And if you don't know, you don't know.</p> <p>15 A Okay.</p> <p>16 Q So the first column header on the upper</p> <p>17 left says "item" and then has the pound sign?</p> <p>18 A Uh-huh.</p> <p>19 Q Do you know what that column refers to?</p> <p>20 A My assumption would be that means item</p> <p>21 number.</p> <p>22 Q And do you know what that would represent?</p> <p>23 A So if this was a Heinz document, it would</p> <p>24 mean what number we refer to. We have like a</p> <p>25 specification number for everything and that's what</p>	<p style="text-align: right;">28</p> <p>1 transaction, so this would be back in 2001. So we may</p> <p>2 have, you know, just had different numbers and bought</p> <p>3 different things back then before my time, so.</p> <p>4 Q So on the first page, 1, 2, 3, 4, 5, 6</p> <p>5 columns over where it says "trans date," your</p> <p>6 testimony is that refers to the transaction date?</p> <p>7 A Yeah.</p> <p>8 Q And do you know if that, what specifically</p> <p>9 that refers to?</p> <p>10 For example, does it refer to the date on</p> <p>11 which Heinz received the product, the date Heinz paid</p> <p>12 for it, date Heinz billed for it, was billed for it,</p> <p>13 et cetera? Do you know which date that refers to?</p> <p>14 A I don't know which of those dates, but it's</p> <p>15 one of those, I would say.</p> <p>16 Q Going back to the -- so the second, we had</p> <p>17 the item number on the far left corner for the header</p> <p>18 and the next one over says "IDESC." Do you know what</p> <p>19 that stands for?</p> <p>20 A Item description.</p> <p>21 Q What does the item description tell us?</p> <p>22 A Describes the item number next to it.</p> <p>23 Q And the one, so for example, eggs whole</p> <p>24 frozen, what's your understanding of what that product</p> <p>25 is?</p>
<p style="text-align: right;">27</p> <p>1 that would refer to.</p> <p>2 However, that number that's listed is not</p> <p>3 familiar to me at all. So I don't know if that is</p> <p>4 what it actually means.</p> <p>5 Q So you are not familiar with a product with</p> <p>6 an item number 01087200?</p> <p>7 A Right.</p> <p>8 On the other hand, this says eggs whole</p> <p>9 frozen and I don't remember buying a lot of frozen</p> <p>10 whole eggs. I thought they were liquid. So that</p> <p>11 might be why I'm not familiar with it.</p> <p>12 Q Let me make a correction on the record.</p> <p>13 The second page of this printout is actually the,</p> <p>14 there were so many columns on the native document,</p> <p>15 that it couldn't fit into one page in sort of a</p> <p>16 landscape or portrait printout to be readable.</p> <p>17 So the way it would actually look on the</p> <p>18 computer screen is if you took page 2 and put it to</p> <p>19 the right of page 1.</p> <p>20 A Sure.</p> <p>21 Q Moving left to right across the screen.</p> <p>22 A Okay. Now that I see this -- I'm sorry. I</p> <p>23 don't want to jump ahead, but go ahead.</p> <p>24 Q Please.</p> <p>25 A This trans date would be the date of the</p>	<p style="text-align: right;">29</p> <p>1 A So that would mean a liquid, to me it would</p> <p>2 mean an egg that's out of the shell and the whole egg,</p> <p>3 proportion of a whole egg and then it's frozen.</p> <p>4 Q The next column over says "ICLAS." Do you</p> <p>5 know what that means?</p> <p>6 A Item class.</p> <p>7 Q And what does item class tell us?</p> <p>8 A Item class is something we specifically use</p> <p>9 within Heinz procurement. So to me it's really</p> <p>10 strange that anyone else would have that. Every</p> <p>11 single material that we buy is grouped by its type and</p> <p>12 is item class for eggs.</p> <p>13 Q The next column over says "TRANS." Do you</p> <p>14 know what that stands for?</p> <p>15 A No.</p> <p>16 Q And I see all of the entries below it are</p> <p>17 Either a "U" or a "C." Does that jog your memory on</p> <p>18 what this column represents?</p> <p>19 A No.</p> <p>20 Q Next column over says "TRANS CD." Do you</p> <p>21 see that?</p> <p>22 A Uh-huh.</p> <p>23 Q Do you know what that represents?</p> <p>24 A No.</p> <p>25 Q We covered transaction date. Next column</p>

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<p style="text-align: right;">30</p> <p>1 over is "TRANS QTY." Do you know what that stands 2 for?</p> <p>3 A That would be transaction quantity.</p> <p>4 Q What does the transaction quantity tell us?</p> <p>5 A That would mean the amount of the pounds in 6 the transaction.</p> <p>7 Q So this is, the numbers in this column are 8 measured as pounds?</p> <p>9 A I think so. I'm a little bit -- I mean it 10 typically does whenever I see a report like this. But 11 I don't know why some would be like that .1, .01, like 12 in the sixth column down or whatever. To me that 13 seems really strange. Of course, there is no price 14 next to it either. So I don't know what that is.</p> <p>15 Q The next column over says "WHS." Do you 16 see that?</p> <p>17 A Uh-huh.</p> <p>18 Q Do you know what that stands for?</p> <p>19 A Warehouse.</p> <p>20 Q And what does the warehouse column tell us?</p> <p>21 A So I would say that's probably where it was 22 delivered, to a warehouse, and those codes mean 23 something, but I'm not familiar with warehouse codes. 24 But that's what I would take that to mean.</p> <p>25 Q So you are not familiar with what "M4"</p>	<p style="text-align: right;">32</p> <p>1 believe it would mean it was tied to an invoice for 2 that quantity, that price and that transaction dollar 3 sign value. It doesn't mean it was paid, but I would 4 think that it eventually would have been paid, or they 5 have to go back, and if it was wrong --</p> <p>6 MR. AHERN: Okay, now we are getting off 7 into all sorts of speculation here.</p> <p>8 So the question is really what do you know 9 about this transactional data.</p> <p>10 And let me also mention to opposing 11 counsel, I don't think we've ever received any 12 questions with respect to the Heinz transactional 13 data. And we're happy to get those questions and 14 then respond to those questions rather than doing 15 it during a deposition. It's your deposition, 16 but --</p> <p>17 MR. SCHWINGLER: Sure, and I'll move to do 18 this a little more quickly and maybe we can have 19 a conversation later about getting some questions 20 answered.</p> <p>21 MR. AHERN: Okay.</p> <p>22 Q Just to be clear, for the record, you're 23 not sure whether the information under transaction 24 price in this document reflects the actual price paid 25 by Heinz or some other number?</p>
<p style="text-align: right;">31</p> <p>1 means?</p> <p>2 A Right, yes. Not familiar.</p> <p>3 Q Next column over says "TRAN PRICE." Do you 4 know what that stands for?</p> <p>5 A I believe that would be the transaction 6 price.</p> <p>7 Q And what does the transaction price tell 8 us?</p> <p>9 A That should be, in my mind, that would be 10 the price on a per pound basis that we were charged. 11 I would think, because it says a price. So a price 12 per pound.</p> <p>13 Q Do you know whether the transaction price 14 column reflects the actual price paid by Heinz for 15 that product for that transaction?</p> <p>16 A I would say --</p> <p>17 MR. AHERN: Do you know?</p> <p>18 A I mean I don't personally know. I would 19 say with the invoice number over there, would mean 20 that's what they were charged, because there is an 21 invoice related to it.</p> <p>22 Now, all these other ones that don't have 23 an invoice, you know, I have no idea what that means.</p> <p>24 So this has, under comments, it has an 25 invoice number charged to it, so that would mean, I</p>	<p style="text-align: right;">33</p> <p>1 A I don't, because I don't know where this 2 report came from, so.</p> <p>3 Q And the next column over says "PO" and has 4 the pound sign?</p> <p>5 A Yeah.</p> <p>6 Q Do you know what that stands for?</p> <p>7 A Purchase order number.</p> <p>8 Q What is the purchase order number?</p> <p>9 A That would be just an internal number that 10 we assign whenever we are making a purchase order with 11 a customer, with our suppliers.</p> <p>12 Q If you go down to, oh, about 10 rows down, 13 you'll see the number 588316, there is about seven or 14 eight entries that have that number?</p> <p>15 A Yeah.</p> <p>16 Q Does Heinz occasionally have a number of 17 products that are ordered on the same purchase order?</p> <p>18 A Right, because so every like, like Heinz 19 factory will have their own purchase order number for 20 a certain supplier and then each release is separate.</p> <p>21 So it will be, you know, 388316-001 for the 22 first order, and then dash 002 for the second order.</p> <p>23 So the release number isn't on here --</p> <p>24 yeah, maybe it's on another line or column or 25 something like that. So yes. So it would be typical.</p>

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<p style="text-align: right;">34</p> <p>1 Q The next column over says "COMMENTS." Do</p> <p>2 you know what that column represents?</p> <p>3 A Nope. I mean looks like when some of them</p> <p>4 says "INV" pound sign number, that was an invoice that</p> <p>5 was associated with that transaction that would</p> <p>6 correspond to it. But some of those comments I</p> <p>7 wouldn't know how that got there.</p> <p>8 Q All right. Next column over says "STD</p> <p>9 COST." Do you know what that stands for?</p> <p>10 A Yep, standard cost.</p> <p>11 Q What does the standard cost tell us?</p> <p>12 A The standard cost would be just what the</p> <p>13 buyer had budgeted that average price to be over a</p> <p>14 year for that particular item at a particular</p> <p>15 location. So it's just a buyer's forecast.</p> <p>16 Q So it doesn't reflect the actual price</p> <p>17 Heinz paid?</p> <p>18 A No, nope.</p> <p>19 Q Next column over says "PO LINE." Do you</p> <p>20 know what that stands for?</p> <p>21 A Yes.</p> <p>22 Q What does that stand for?</p> <p>23 A That stands for -- so like I mentioned each</p> <p>24 factory has their own purchase order for each</p> <p>25 supplier, and then they may have a line. So it has</p>	<p style="text-align: right;">36</p> <p>1 Q Next column over says "QTY received." Do</p> <p>2 you know what that stands for?</p> <p>3 A Means quantity received.</p> <p>4 Q And is that the amount of product that</p> <p>5 Heinz actually received on that order?</p> <p>6 A Yep.</p> <p>7 Q Next column over says "ORIG DUE DATE." Do</p> <p>8 you know what that stands for?</p> <p>9 A Original due date, yeah.</p> <p>10 Q Do you know what that, what the original</p> <p>11 due date is?</p> <p>12 A Right, it would say it on each line. So</p> <p>13 2001 --</p> <p>14 Q Let me ask a better question. What does</p> <p>15 the original due date column tell us?</p> <p>16 A Oh, I would guess that is when we</p> <p>17 originally asked the supplier to deliver, the original</p> <p>18 date we asked the product to be delivered.</p> <p>19 Q Next column over says "STD COST." Is that</p> <p>20 the same as the standard cost column that you --</p> <p>21 A Yep.</p> <p>22 Q -- noted before?</p> <p>23 A Yep.</p> <p>24 Q I do note that some of those numbers don't</p> <p>25 match up, but that's something we can reconcile later.</p>
<p style="text-align: right;">35</p> <p>1 maybe they bought whole eggs, whites and yolks, line</p> <p>2 one would be the whole eggs, line two would be the</p> <p>3 whites -- or whatever. So that just means a different</p> <p>4 item on the --</p> <p>5 Q This tells you if you found the PO, this</p> <p>6 tells you where to look on the document to find that</p> <p>7 information?</p> <p>8 A Right.</p> <p>9 Q So turning to the next page, which on the</p> <p>10 native document would mean continuing left to right</p> <p>11 across the top of the screen, the column in the left</p> <p>12 corner says "actual cost (not reliable)." Do you know</p> <p>13 what that stands for?</p> <p>14 A No, I don't.</p> <p>15 Q Next column over says "QTY ORDERED." Do</p> <p>16 you know what that stands for?</p> <p>17 A Quantity ordered.</p> <p>18 Q What is the quantity ordered?</p> <p>19 A That would be the quantity that our</p> <p>20 planners at the factory would have ordered on a PO.</p> <p>21 Q And next column over -- and do you know</p> <p>22 what unit of measure is being used for this column?</p> <p>23 A No, I mean if you look all the way over to</p> <p>24 this "PUN," that might be purchasing unit of measure.</p> <p>25 That could be what it is.</p>	<p style="text-align: right;">37</p> <p>1 The next column over says "EXP COST." Do</p> <p>2 you know what that stands for?</p> <p>3 A Expected cost.</p> <p>4 Q What does the expect -- what does the</p> <p>5 expected cost tell us?</p> <p>6 A That would have been -- so we get to set</p> <p>7 our standard cost once a year in our system and</p> <p>8 that's, it never moves. But we also are given the</p> <p>9 opportunity to update an expected cost quarterly, so</p> <p>10 that could be the latest expected cost.</p> <p>11 Q So this is a projection?</p> <p>12 A Yeah, it's also a projection.</p> <p>13 Q The next column over says "EXT ACT COST."</p> <p>14 What does that stand for?</p> <p>15 A I'm not certain what that actually stands</p> <p>16 for, the EXT part, but I would think ACT COST would be</p> <p>17 actual cost.</p> <p>18 Q You are not familiar with this EXT ACT</p> <p>19 COST?</p> <p>20 A No, I could guess by looking at the</p> <p>21 numbers, but I'm not familiar with using that.</p> <p>22 Q The next one over says "PUN." Do you know</p> <p>23 what that stands for?</p> <p>24 A Purchasing unit of measure.</p> <p>25 Q And that tells us whether, what the unit of</p>

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<p style="text-align: right;">38</p> <p>1 measure was for the product that you are buying?</p> <p>2 A Uh-huh.</p> <p>3 Q Next column over says "COSTED QTY"?</p> <p>4 A Costed quantity.</p> <p>5 Q What does the costed quantity tell us?</p> <p>6 A The costed quantity would be, I would</p> <p>7 think, your expected cost -- well, your expected cost</p> <p>8 times the amount you ordered maybe. Honestly, doesn't</p> <p>9 really make sense.</p> <p>10 The costed -- oh, costed quantity. That's</p> <p>11 not a price. So being that you received the 600, you</p> <p>12 should be costing the 600.</p> <p>13 Q Okay. Have you used the term costed</p> <p>14 quantity in your role as an egg buyer?</p> <p>15 A No, I don't.</p> <p>16 Q So do you know definitively what that term</p> <p>17 means in this document?</p> <p>18 A I would say no.</p> <p>19 Q Next column over says "ENTRY DATE." Do you</p> <p>20 know what that means?</p> <p>21 A It's not, again, something I would use, but</p> <p>22 an entry date would have been, I would think that the</p> <p>23 date that the planner entered the order.</p> <p>24 Q Next column over says "CONTRACT" and then</p> <p>25 has the pound sign.</p>	<p style="text-align: right;">40</p> <p>1 Q What are the names of the two companies?</p> <p>2 A Company 1 and Company 3 is what we call</p> <p>3 them. But it's really, there is a company for like</p> <p>4 more of the food service brands. And more for the</p> <p>5 frozen CP, I should say frozen is one and then CP --</p> <p>6 sorry.</p> <p>7 Frozen is one and food service and casing</p> <p>8 and that kind of products is another company. I just</p> <p>9 have always had, at least when I was there, I think</p> <p>10 they still do it, just because they have separate like</p> <p>11 kind of accounting and that, they just put them</p> <p>12 together because they are just different business</p> <p>13 units.</p> <p>14 Q You call them Company 1 and Company 3. Do</p> <p>15 you know what, if those companies have, you know,</p> <p>16 their own names for the outside world?</p> <p>17 A I think they would be called food service</p> <p>18 and consumer products.</p> <p>19 Q Are these separately, to your knowledge,</p> <p>20 separately incorporated businesses or are they just</p> <p>21 divisions within Heinz?</p> <p>22 A They are just divisions within Heinz.</p> <p>23 Q Next column over says "VENDOR" and then has</p> <p>24 the pound sign?</p> <p>25 A Uh-huh.</p>
<p style="text-align: right;">39</p> <p>1 A Uh-huh.</p> <p>2 Q Does that mean contract number?</p> <p>3 A Yes.</p> <p>4 Q What does the contract number tell us?</p> <p>5 A We just have contracts in our computer</p> <p>6 system that have a code and that would have been just</p> <p>7 the code for the contract that the planner was</p> <p>8 ordering off of.</p> <p>9 Q So, for example, the first entry says</p> <p>10 "FM033". What does that tell us?</p> <p>11 A That just means if we wanted to look up a</p> <p>12 specific system pricing agreement or contract, we</p> <p>13 could go put in FM033 and it would bring up the</p> <p>14 contract that this egg was ordered off of.</p> <p>15 Q And would FM033 be a unique contract with a</p> <p>16 unique supplier?</p> <p>17 A Yes.</p> <p>18 Q And if Heinz had entered another contract</p> <p>19 with that same supplier, would it have a different</p> <p>20 contract number?</p> <p>21 A It would have the same -- so to be clear,</p> <p>22 there is just one contract per supplier. However,</p> <p>23 Heinz has two companies. So like a food service</p> <p>24 company and a frozen foods company. So there is two</p> <p>25 different contracts per supplier.</p>	<p style="text-align: right;">41</p> <p>1 Q What does that stand for?</p> <p>2 A So every vendor has their own vendor</p> <p>3 number. Just helps pays bills and keeps a record,</p> <p>4 that's what that is.</p> <p>5 Q So vendor 48038 refers to a specific</p> <p>6 vendor?</p> <p>7 A Right.</p> <p>8 Q And always refers to that same vendor?</p> <p>9 A Right.</p> <p>10 Q Next column over says "VENDOR DESCRIPTION."</p> <p>11 What does that tell us?</p> <p>12 A It should describe that vendor listed in</p> <p>13 the vendor number I would think.</p> <p>14 Q Do you see in that first entry it says</p> <p>15 "ConAgra Food" and then "do not use."</p> <p>16 A Yep.</p> <p>17 Q Do you know why the phrase "do not use,"</p> <p>18 what that represents?</p> <p>19 A That is because in our system we have a lot</p> <p>20 of duplicate vendors listed. So maybe if it's</p> <p>21 ConAgra, we have ConAgra under 48083 and then we have</p> <p>22 ConAgra again under 12345 and ConAgra again under</p> <p>23 45678.</p> <p>24 So then it started to put a comment like</p> <p>25 don't use this one because we are trying to put all of</p>

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<p style="text-align: right;">42</p> <p>1 it under the 1234. So didn't have anything to do with</p> <p>2 not using ConAgra, it was trying to consolidate all</p> <p>3 the vendor numbers to one number.</p> <p>4 Q Thanks. You can set Exhibit 2 aside.</p> <p>5 (THEREUPON, Deposition Exhibit 3 was marked</p> <p>6 for identification.)</p> <p>7 Q You have been handed what's been marked as</p> <p>8 Exhibit 3, which for the record is an e-mail bearing</p> <p>9 the bates number Heinz 00020738, and a spread sheet</p> <p>10 that was attached to that e-mail.</p> <p>11 And there is a printout of the first tab of</p> <p>12 the three tabs in the spread sheet which is entitled</p> <p>13 sheet 1 in the native document.</p> <p>14 A Uh-huh.</p> <p>15 Q First of all, is Exhibit 1, is this an</p> <p>16 e-mail that you sent in March of 2008?</p> <p>17 A Yes.</p> <p>18 Q You sent this to Guy McIntyre and Mauricio</p> <p>19 Sirgo; is that correct?</p> <p>20 A Yes.</p> <p>21 Q What was Mr. Sirgo's title or role at this</p> <p>22 time?</p> <p>23 A He was my manager. He was manager of</p> <p>24 ingredients for procurement.</p> <p>25 Q Who is Guy McIntyre?</p>	<p style="text-align: right;">44</p> <p>1 Q What is Heinz's fiscal year? Do you know</p> <p>2 when it starts?</p> <p>3 A At this time it started in May.</p> <p>4 Q So this is March of 2008.</p> <p>5 A Yeah.</p> <p>6 Q And you're projecting fiscal year 2009 egg</p> <p>7 purchases?</p> <p>8 A Right.</p> <p>9 Q And it says some of FY 09 pre-AOP spend?</p> <p>10 A Uh-huh.</p> <p>11 Q I assume FY means fiscal year; is that</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q What does AOP stand for?</p> <p>15 A Annual operating plan.</p> <p>16 Q What is the annual operating plan?</p> <p>17 A Annual operating plan is the plan that our</p> <p>18 whole business works off of to set, you know, how much</p> <p>19 we think we're going to produce in the next year, how</p> <p>20 much we're going to sell, and with knowing how much</p> <p>21 we're going to sell and how much we're going to</p> <p>22 produce, how much raw materials we're going to buy and</p> <p>23 how much those raw materials are going to cost.</p> <p>24 So it's just planning it out for the next</p> <p>25 year and budgeting it.</p>
<p style="text-align: right;">43</p> <p>1 A Guy McIntyre was the director of the</p> <p>2 procurement team over all of the direct materials,</p> <p>3 ingredients.</p> <p>4 Q So Mr. McIntyre the supervisor of</p> <p>5 Mr. Sirgo?</p> <p>6 A Yes.</p> <p>7 Q And then this e-mail references a meeting</p> <p>8 between you, Mr. McIntyre and Mr. Sirgo to occur</p> <p>9 around that time?</p> <p>10 A Uh-huh.</p> <p>11 Q If you turn to the second page of the</p> <p>12 Exhibit, which is the printout of the tab entitled</p> <p>13 sheet 1 from the spread sheet, did you create this</p> <p>14 document?</p> <p>15 A Yes.</p> <p>16 Q What is it?</p> <p>17 A All it is is a listing for eggs, all of the</p> <p>18 suppliers that provide eggs in the egg item class and</p> <p>19 what their total spend would be based off of my new,</p> <p>20 kind of -- this says pre-AOP, so based off of a budget</p> <p>21 that I was planning for FY 09.</p> <p>22 Q So these numbers are projected numbers?</p> <p>23 A Yes.</p> <p>24 Q What --</p> <p>25 A I would think so.</p>	<p style="text-align: right;">45</p> <p>1 Q So for fiscal year 2009, does this document</p> <p>2 list all of the egg product suppliers that Heinz</p> <p>3 purchased from?</p> <p>4 A Yes.</p> <p>5 Q That includes CF Sauer -- do you know what</p> <p>6 you bought from CF Sauer?</p> <p>7 A We only bought a mayonnaise item.</p> <p>8 Q And Echo Lake Foods?</p> <p>9 A We just buy scrambled eggs from them,</p> <p>10 cooked and frozen.</p> <p>11 Q What did Heinz buy from Golden Oval in</p> <p>12 fiscal year 2009?</p> <p>13 A Liquid whole eggs and yolks.</p> <p>14 Q What did Heinz buy from Michael Foods in</p> <p>15 fiscal year 2009?</p> <p>16 A We would have bought an emulsa product that</p> <p>17 they sell and powdered eggs and probably, as well --</p> <p>18 those are the main items, but also probably just the</p> <p>19 commodity items as well, liquid items.</p> <p>20 Q You used the word emulsa. Can you explain</p> <p>21 what emulsa is?</p> <p>22 A Emulsa is an enzyme modified yolk that,</p> <p>23 it's just a special product. I believe Michael Foods</p> <p>24 is one of the only companies that has it and it has</p> <p>25 like a better emulsification properties that a regular</p>

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<p style="text-align: right;">46</p> <p>1 yolk.</p> <p>2 Q When you say emulsification properties,</p> <p>3 what do you mean?</p> <p>4 A Well, this product is used in, you know,</p> <p>5 our portion pack for like mayonnaise type items. And</p> <p>6 so if you got oil, you got water, emulsifiers hold</p> <p>7 those together along with the other ingredients. So</p> <p>8 it's stronger. You can use less than maybe a</p> <p>9 different yolk than a regular yolk.</p> <p>10 Q So an egg yolk is an emulsifier?</p> <p>11 A It is.</p> <p>12 Q And an enzyme modified egg yolk has better</p> <p>13 emulsification ability than a normal egg yolk?</p> <p>14 A Right.</p> <p>15 Q You said you believe Michael Foods is one</p> <p>16 of the only companies that manufactured an enzyme</p> <p>17 modified egg yolk. Are you aware of any others?</p> <p>18 A At the time I believe there was a Primera</p> <p>19 Foods that did it.</p> <p>20 Q Anybody other than Michael Foods and</p> <p>21 Primera?</p> <p>22 A Not that I am aware of. So I'd say no.</p> <p>23 Q And did Heinz buy emulsa -- let me ask it a</p> <p>24 different way.</p> <p>25 Why did Heinz buy emulsa rather than</p>	<p style="text-align: right;">48</p> <p>1 started.</p> <p>2 Q Are you familiar with, in general terms,</p> <p>3 with the overall egg spends by Heinz between 1999 and</p> <p>4 2008?</p> <p>5 A Only when I started. I don't know what it</p> <p>6 was before that.</p> <p>7 Q So, for example, you are not familiar with</p> <p>8 how much money Heinz spent on egg products in 2005?</p> <p>9 A No.</p> <p>10 MR. AHERN: Just for clarification, I</p> <p>11 believe she talked to Mr. Sirgo about what it was</p> <p>12 during his period of time yesterday.</p> <p>13 Q So other than your personal knowledge, did</p> <p>14 you speak with any other Heinz employees about, you</p> <p>15 know, average egg spends during 1999 to 2008 time</p> <p>16 frame?</p> <p>17 A We did talk about it. I don't remember a</p> <p>18 specific number, but I think it was pretty much the</p> <p>19 same products we were buying at his time as it was my</p> <p>20 time. Particular on spend --</p> <p>21 MR. AHERN: Maybe during a break we can</p> <p>22 refresh her recollection as to that conversation</p> <p>23 with Mr. Sirgo.</p> <p>24 MR. SCHWINGLER: Sure, yeah, we will have a</p> <p>25 break in about a minute any ways.</p>
<p style="text-align: right;">47</p> <p>1 regular yolks?</p> <p>2 A It was for a cost reduction project.</p> <p>3 Q In what way would using emulsa help Heinz</p> <p>4 reduce its costs?</p> <p>5 A I believe they were able to -- I know they</p> <p>6 were able to reformulate their entire mayonnaise to</p> <p>7 use less egg, probably less oil, just get the same</p> <p>8 product, it was able to reformulate.</p> <p>9 Q Is emulsa more expensive than regular egg</p> <p>10 yolks?</p> <p>11 A It is. So you would have to, just a total</p> <p>12 formula, you use less of -- your total cost of</p> <p>13 ingredients overall are less, you use less eggs, less,</p> <p>14 you know, oil or whatever, so probably put in more</p> <p>15 water and cheaper overall.</p> <p>16 Q Do you know when Heinz began purchasing</p> <p>17 emulsa?</p> <p>18 A I don't.</p> <p>19 Q Just turning back to that excel spread</p> <p>20 sheet page, Exhibit 3, generally speaking, do these</p> <p>21 numbers represent a typical year for egg product</p> <p>22 purchases for Heinz in terms of the overall egg spent?</p> <p>23 A I think it's a bit high, because when I</p> <p>24 started, I remember it being about 10 million. So I</p> <p>25 think that is high. Higher than previous year when I</p>	<p style="text-align: right;">49</p> <p>1 Q Let me ask you, was Mr. Sirgo the egg buyer</p> <p>2 before you?</p> <p>3 A He was.</p> <p>4 Q What years was he the egg buyer?</p> <p>5 A 2005, 2007.</p> <p>6 Q Who was the egg buyer before Mr. Sirgo?</p> <p>7 A Dennis Rantham.</p> <p>8 Q Do you know Kris Ketola?</p> <p>9 A I do.</p> <p>10 Q Am I pronouncing that name correctly?</p> <p>11 A You are.</p> <p>12 Q What was Kris Ketola's role between 1999</p> <p>13 and 2008, if you know?</p> <p>14 A Well, he was located at our Newburyport</p> <p>15 facility and that's where our desserts were made. And</p> <p>16 around the time I started, they were integrating some</p> <p>17 of those affiliate businesses. I don't know what year</p> <p>18 we purchased Alden Merrell, but it's early 2000's.</p> <p>19 I'd have to look up that exact date.</p> <p>20 But we did buy the desserts business, Alden</p> <p>21 Merrell, which is Newburyport, and he was in charge of</p> <p>22 purchasing there and eventually that was all rolled</p> <p>23 together.</p> <p>24 So different responsibilities were shared,</p> <p>25 but he had bought eggs for the Alden Merrell, not</p>

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<p style="text-align: right;">50</p> <p>1 necessarily him, but he was the main supervisor, so he</p> <p>2 would have been part of that.</p> <p>3 And then we kind of -- so he had experience</p> <p>4 with it whenever I started and I would talk to him</p> <p>5 about his familiarity with the business.</p> <p>6 Q Did you speak with Mr. Ketola about your</p> <p>7 deposition today?</p> <p>8 A No.</p> <p>9 MR. SCHWINGLER: Why don't we take a break.</p> <p>10 We can change tapes, go off the record.</p> <p>11 VIDEOGRAPHER: This ends tape number 1. We</p> <p>12 are off the record. The time is 9:59 a.m.</p> <p>13 (Recess taken.)</p> <p>14 VIDEOGRAPHER: This begins tape number 2.</p> <p>15 We are on the record. The time is 10:07 a.m.</p> <p>16 BY MR. SCHWINGLER:</p> <p>17 Q Good morning again, Ms. Kamzalow. You</p> <p>18 understand you are still under oath?</p> <p>19 A Yes.</p> <p>20 (THEREUPON, Deposition Exhibit 4 was marked</p> <p>21 for identification.)</p> <p>22 Q Hand you what's been marked as Exhibit 4.</p> <p>23 Please review briefly the e-mail on the front of the</p> <p>24 document.</p> <p>25 For the record Exhibit 4 is an e-mail, with</p>	<p style="text-align: right;">52</p> <p>1 A What I would have meant that to mean is my</p> <p>2 projections for the first and second quarter of our</p> <p>3 fiscal year.</p> <p>4 Q Okay. So turning to the first printout of</p> <p>5 the spread sheet, which was from the tab entitled "egg</p> <p>6 assumptions" on the attached documents --</p> <p>7 A Uh-huh.</p> <p>8 Q -- at the top of the page I see there is a</p> <p>9 column on the left that says "ITEM_NUM"?</p> <p>10 A Uh-huh.</p> <p>11 Q What does that stand for?</p> <p>12 A Item number.</p> <p>13 Q And what does the item number tell us in</p> <p>14 this document?</p> <p>15 A That's the Heinz spec number.</p> <p>16 Q So that's a number internal to Heinz that</p> <p>17 is related to a specific ingredient?</p> <p>18 A Right.</p> <p>19 Q And is the next column over a just verbal</p> <p>20 description of that ingredient?</p> <p>21 A Right, yes.</p> <p>22 Q Just in the item description column, the</p> <p>23 first entry says "egg whole, liquid, pastur." What</p> <p>24 does that stand for?</p> <p>25 A It's an egg that's a liquid whole egg</p>
<p style="text-align: right;">51</p> <p>1 the bates number Heinz 00010471, with an attached</p> <p>2 spread sheet. And the printout that we have as part</p> <p>3 of the Exhibit has the tab entitled "Egg Assumptions"</p> <p>4 and the tab entitled "I6," that are included from that</p> <p>5 document and there were some hidden columns in the</p> <p>6 second, the I6 tab, specifically columns G and I</p> <p>7 through AX, and we also unhid column A.</p> <p>8 So you can see column A, but not G and I</p> <p>9 through AX in the way the document was produced.</p> <p>10 Ms. Kamzalow, is the e-mail on the front of</p> <p>11 Exhibit 4, is that an e-mail that you sent to Guy</p> <p>12 McIntyre in 2007?</p> <p>13 A Yes.</p> <p>14 Q And it's entitled, the subject line is "Egg</p> <p>15 Pricing Assumptions"; is that correct?</p> <p>16 A Yes.</p> <p>17 Q And attached to the e-mail was a document</p> <p>18 called "Guy's chart 10.2407 xls"; is that correct?</p> <p>19 A Yes.</p> <p>20 Q And in your transmittal e-mail you say</p> <p>21 "Guy, I have attached assumptions for Q1 and Q2 on</p> <p>22 eggs"; is that right?</p> <p>23 A Yes.</p> <p>24 Q When you use the term "egg pricing</p> <p>25 assumptions," what do you mean?</p>	<p style="text-align: right;">53</p> <p>1 that's pasturized.</p> <p>2 Q And the next one down says "salted egg yolk</p> <p>3 light NEPA." What is that?</p> <p>4 A So that would be an egg yolk that's salted</p> <p>5 and light NEPA is the color of the yolk.</p> <p>6 Q What does NEPA stand for?</p> <p>7 A That has something -- it's my understanding</p> <p>8 that's just the color of a yolk. They use that word</p> <p>9 NEPA to describe the color of the yolk.</p> <p>10 Q So it's not an acronym?</p> <p>11 A Not that I know of. That might be an</p> <p>12 industry thing, but not Heinz related.</p> <p>13 Q And then the next entry "salted egg yolk</p> <p>14 NEPA 2," that's a different product than "salted egg</p> <p>15 yolk light NEPA"?</p> <p>16 A Right, because it refers to the color of</p> <p>17 the yolk.</p> <p>18 Q And then the next two entries are "egg</p> <p>19 whole liquid"; correct?</p> <p>20 A Correct.</p> <p>21 Q Starting with "egg whole liquid pasturized"</p> <p>22 at the top, do you know what Heinz used that product</p> <p>23 to make?</p> <p>24 A They used that to make primarily Nancy's</p> <p>25 Quiches.</p>

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<p style="text-align: right;">54</p> <p>1 Q Is Nancy's a brand name owned by Heinz?</p> <p>2 A It's a brand that Heinz owns, right.</p> <p>3 Q And the next product down, "salted egg yolk</p> <p>4 light NEPA," what did Heinz use that product to make?</p> <p>5 A So the next column over says "LOC,"</p> <p>6 location, so I'm just using the location to see what</p> <p>7 products are made at those locations.</p> <p>8 So 65 is Masalon where they make quiches.</p> <p>9 69 is Chatsworth, so that would have been a portion</p> <p>10 pack facility.</p> <p>11 Q What is portion pack?</p> <p>12 A So portion pack are the little packs that</p> <p>13 you get at a fast food restaurant that would have</p> <p>14 ketchup or mayonnaise or ranch dressing. And so eggs</p> <p>15 would have been used in products like mayonnaise and</p> <p>16 ranch dressing.</p> <p>17 Q The next one down "salted egg yolk NEPA 2"?</p> <p>18 A Uh-huh.</p> <p>19 Q That has the location number of 22. What</p> <p>20 is location number 22?</p> <p>21 A That's Mason, which is also a portion pack</p> <p>22 facility.</p> <p>23 Q And so that product would probably have</p> <p>24 been used for some sort of dressing or condiment?</p> <p>25 A Right.</p>	<p style="text-align: right;">56</p> <p>1 impact the price of eggs?</p> <p>2 A Yes.</p> <p>3 Q And does grain price impact the price of</p> <p>4 egg products?</p> <p>5 A Yes.</p> <p>6 Q And then I note over, if you go to the</p> <p>7 right on that same row under the column Q1 it says</p> <p>8 "High"?</p> <p>9 A Uh-huh.</p> <p>10 Q What does that mean?</p> <p>11 A That would mean that -- I made this</p> <p>12 document a long time ago, so I'm inferring that that</p> <p>13 means that the grain prices in Q1 and Q2 are going to</p> <p>14 be high.</p> <p>15 Q And then if you keep going to the right</p> <p>16 there is a column that says "Q2 comments"?</p> <p>17 A Uh-huh.</p> <p>18 Q Under that to the right of grain price, it</p> <p>19 says "feed costs are appearing more of a concern going</p> <p>20 into next year than originally anticipated"?</p> <p>21 A Yes.</p> <p>22 Q What did you mean by that?</p> <p>23 A So back in 2007 the cost of grain, corn, I</p> <p>24 should say primarily, was going up. There was like</p> <p>25 the ethanol push and more corn was being taken away</p>
<p style="text-align: right;">55</p> <p>1 Q "Egg whole liquid" is location 57. What is</p> <p>2 location 57?</p> <p>3 A 57 is Diane's Desserts which is in Le</p> <p>4 Center, Minnesota. And then 55 is the Alden Merrell,</p> <p>5 also desserts. So liquid whole eggs would have been</p> <p>6 those two lines with the same number, those are all</p> <p>7 the dessert locations that we had.</p> <p>8 Q And do you know what Diane's made using</p> <p>9 liquid whole eggs?</p> <p>10 A I mean, I think could have been everything.</p> <p>11 They made lots of cakes and cheesecakes and pies and</p> <p>12 whatever, all that stuff.</p> <p>13 Q At the bottom of this spread sheet it says,</p> <p>14 you see where it says "Market Factors" in bold?</p> <p>15 A Yes.</p> <p>16 Q What do you mean by market factors?</p> <p>17 A So market factors are pieces of industry</p> <p>18 knowledge that we may have heard from suppliers or,</p> <p>19 you know, just pieces of information that are out</p> <p>20 there that I'm hearing that may influence the price of</p> <p>21 egg one way or another.</p> <p>22 Q So the first thing listed below market</p> <p>23 factors is grain price. Do you see that?</p> <p>24 A Uh-huh.</p> <p>25 Q So to your knowledge does grain price</p>	<p style="text-align: right;">57</p> <p>1 from food and going to ethanol, that type of thing.</p> <p>2 So there was less supply available.</p> <p>3 And then that all, because chickens eat</p> <p>4 corn, that goes into, you know, it was an import cost.</p> <p>5 So, you know, what I exactly mean by more</p> <p>6 than originally anticipated is, you know, I'm not</p> <p>7 exactly sure back then what was originally</p> <p>8 anticipated.</p> <p>9 So I just think it means it was going to be</p> <p>10 more of a factor. Because this is for Q1 and Q2, I'm</p> <p>11 projecting for next year, so whatever we thought was</p> <p>12 going to happen, it's worse than what we thought was</p> <p>13 going to happen.</p> <p>14 Q And does Heinz -- Heinz as a company have</p> <p>15 an understanding that grain prices can impact egg</p> <p>16 product prices?</p> <p>17 MR. AHERN: Object to the form. Go ahead.</p> <p>18 A I would say that anything that uses feed,</p> <p>19 any kind of agricultural, you know, animal that eats</p> <p>20 grain is going to impact their price, so yes.</p> <p>21 Q Does Heinz track grain prices?</p> <p>22 A We track corn and soy beans, so, yes.</p> <p>23 Q And did Heinz track grain prices during</p> <p>24 your time as the egg buyer?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">58</p> <p>1 Q Did Heinz track grain prices prior to your 2 time as the egg buyer?</p> <p>3 A Yes.</p> <p>4 Q And does Heinz continue to track grain 5 prices today?</p> <p>6 A Yes.</p> <p>7 Q The next under market factors, the next, if 8 you head down, 4 or 5 rows down, you see where it says 9 "demand for white versus yolk"?</p> <p>10 A Uh-huh.</p> <p>11 Q What did you mean by that?</p> <p>12 A So we are more heavily using yolks. And it 13 seems in the market sometimes yolk is the more coveted 14 and then sometimes whites are the more coveted.</p> <p>15 So it kind of goes -- because you always 16 have to do something with one part of it. You can't 17 just make the other part go away. It seems like there 18 is always a, you know, which is going to be the more 19 valuable part.</p> <p>20 So being that we were more heavily using 21 yolks at the time, was that going to be a factor, a 22 big factor in the price.</p> <p>23 Being that I said low, I would mean that 24 that's not really going to heavily impact our price.</p> <p>25 Q I just was wondering if you could maybe</p>	<p style="text-align: right;">60</p> <p>1 Q So first an egg has both a white and a 2 yolk; correct?</p> <p>3 A Right.</p> <p>4 Q And if you wanted to buy just the white, 5 that would still have to come from an egg at some 6 point in the process?</p> <p>7 A Right, yes.</p> <p>8 Q And that leaves the yolk left over?</p> <p>9 A Right, yes.</p> <p>10 Q Which means if you want to buy more egg 11 whites, that could result in more egg yolks being left 12 over; correct?</p> <p>13 A Correct, yes.</p> <p>14 Q So an increase in the demand for egg whites 15 could result in an increase in the supply of egg 16 yolks?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A Yes.</p> <p>19 Q And so is it your understanding then that 20 when the demand for whites increases relative to 21 yolks, that can result in increase in the supply of 22 egg yolks available?</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A Yes.</p> <p>25 Q Which could result in prices for egg yolks</p>
<p style="text-align: right;">59</p> <p>1 explain this a little bit, in a little bit more 2 detail.</p> <p>3 Let's assume that the price or that the 4 demand for egg whites increases relative to the demand 5 for egg yolks. What impact would that have on the 6 price that Heinz paid for the egg yolks it buys?</p> <p>7 MR. AHERN: Object to the form.</p> <p>8 A So Heinz will pay, their price was based 9 off the Urner Barry market. So whatever the Urner 10 Barry says we are going to pay. However, if whites 11 were really in demand, that could produce more yolks, 12 which I think may help the market pricing, you know, 13 soften perhaps. That's the theory.</p> <p>14 And then if we're buying off of that 15 market, we could get hopefully, the price won't 16 continue to go up. Whereas if the yolks were more 17 sought after, it's going to increase.</p> <p>18 Q I'm going to break this down sort of bit by 19 bit.</p> <p>20 A Okay.</p> <p>21 Q I think I understand this, and certainly 22 you do, but I want to make sure that a lay jury or 23 judge will understand exactly what we're talking 24 about.</p> <p>25 A Okay.</p>	<p style="text-align: right;">61</p> <p>1 dropping?</p> <p>2 MR. AHERN: Same objection.</p> <p>3 A I would say in theory, yes. But not -- I 4 don't know that that would happen. But if there is an 5 ample supply, that means there will be more available. 6 But that might just mean they are going 7 to -- it could also depend on other things, like if 8 the inventory of dry products are low, maybe they want 9 to build up their dry products and not maybe sell the 10 liquid yolks. I think that different things could 11 happen.</p> <p>12 Q You said in theory -- I asked a question 13 about whether an increase in the demand for whites 14 could ultimately result in a decrease in the price of 15 yolks. And I believe you said in theory; is that 16 correct?</p> <p>17 A I did say that.</p> <p>18 Q But you were tracking the demand for whites 19 versus yolk, at least when you created this document?</p> <p>20 A Uh-huh.</p> <p>21 Q And so that was something that Heinz was 22 interested in, in estimating its egg costs; correct?</p> <p>23 A It's something that's talked about. You 24 know, and I think that it's my understanding that 25 that's a short term, maybe, you know, up and down. I</p>

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<p style="text-align: right;">62</p> <p>1 don't think that that maybe is a long term, 2 influential factor.</p> <p>3 Q The next factor down says "bird housing 4 conditions." Do you see that?</p> <p>5 A Uh-huh.</p> <p>6 Q What did you mean by bird housing 7 conditions?</p> <p>8 A Um, bird housing conditions are another 9 input into the cost of eggs and chickens. So that 10 could be, you know, if they need to be improved, 11 that's a cost that's just input into the overall cost 12 of the industry.</p> <p>13 Q What would an example of a housing 14 condition be?</p> <p>15 A I mean I think it could be maintaining 16 certain standards for the eggs, I'm sorry, for the 17 chickens. If there was something maybe new that came 18 out, like I know that they were talking about 19 increasing space. So that could be an example.</p> <p>20 Any kind of standards at all, maybe they 21 want, I don't know, maybe they think they want to keep 22 the birds in any kind of certain condition, it could 23 be also a factor. It's just different or new or 24 something that would be a new cost to them that would 25 be passed on.</p>	<p style="text-align: right;">64</p> <p>1 impact the price of egg products?</p> <p>2 A I really can't. I would be speculating. 3 But it was something that was going around in the 4 past. So we still list it there under market factors, 5 but I really don't know. I really don't have 6 knowledge about that.</p> <p>7 Q If you turn to the next printout in this 8 Exhibit, which was a printout of the sheet, tab under 9 score I6, has yellow on the right column.</p> <p>10 A Yep, uh-huh.</p> <p>11 Q In the middle of the page, the middle three 12 columns in from the left, it says "item description." 13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And so does this list a number of egg 16 products that Heinz purchased around this time frame?</p> <p>17 A Yes.</p> <p>18 Q We've talked about egg whole liquid and egg 19 whole liquid pasturized. You mentioned I see down 20 about a third of the way down the page, it says 21 "emulsa egg yolk tote." Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Is that that emulsa product you testified 24 about earlier?</p> <p>25 A Yes.</p>
<p style="text-align: right;">63</p> <p>1 Q And, in fact, the last entry in that column 2 says "bird health/welfare;" correct?</p> <p>3 A Yes.</p> <p>4 Q When you go over to the right, it says "new 5 UEP cage size restrictions." Do you see that?</p> <p>6 A Yes.</p> <p>7 Q So were you monitoring the UEP cage size 8 restrictions as indicated on this document?</p> <p>9 A No, I wouldn't say I was monitoring them.</p> <p>10 Q But you understood that UEP cage size 11 restrictions could impact the market price for egg 12 products?</p> <p>13 MR. AHERN: Object to the form.</p> <p>14 A I would say that that was a factor in that 15 it was limiting how fast they could expand because 16 they needed to have more area for the chickens. So if 17 they only had one house --</p> <p>18 Q When you say "they," you mean egg 19 suppliers?</p> <p>20 A Right, if the egg suppliers were going to 21 meet these UEP guidelines.</p> <p>22 Q And then just the second to last market 23 factor listed is "bird flu"; correct?</p> <p>24 A Yes.</p> <p>25 Q Can you explain to me how bird flu could</p>	<p style="text-align: right;">65</p> <p>1 Q If you go down a little further it says 2 "egg sugared yolks"?</p> <p>3 A Yes.</p> <p>4 Q What did Heinz make with sugared egg yolks?</p> <p>5 A You can see location 55 and 57, which are 6 the desserts factory. They were making finished 7 desserts.</p> <p>8 Q 57 was in Le Center, Minnesota?</p> <p>9 A Right.</p> <p>10 Q About -- well, right below the sugared egg 11 yolks, it says "egg yolks frozen pasturized." Do you 12 see that?</p> <p>13 A Uh-huh.</p> <p>14 Q What does Heinz make with frozen pasturized 15 egg yolks?</p> <p>16 A That 65 which is Masalon, I'm not 100 17 percent sure. I would say that that was going into a 18 Nancy's quiche.</p> <p>19 Q And then a couple down it says "eggs frozen 20 white." Do you see that?</p> <p>21 A Yes.</p> <p>22 Q What did Heinz make with frozen egg whites?</p> <p>23 A Those facilities listed there are all PPI 24 facilities, so they were making something portion pack 25 dressing or sauce with that.</p>

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<p style="text-align: right;">66</p> <p>1 Q And then down below "eggs frozen white," it</p> <p>2 says "egg, angel whip whites." Do you see that?</p> <p>3 A Yes.</p> <p>4 Q First of all, what are angel whip whites?</p> <p>5 A I honestly don't know. I mean, those are</p> <p>6 57, 55 again. Egg whites are used to make angel food</p> <p>7 cake, so maybe something like that. But I never</p> <p>8 personally made them, so I don't know.</p> <p>9 Q Below angel whip whites, it says "egg white</p> <p>10 solids." Do you see that?</p> <p>11 A Yes.</p> <p>12 Q What did Heinz make with egg whites solids?</p> <p>13 A That would be the, would go into our, like</p> <p>14 we made pastas in-house and we would add egg powders</p> <p>15 to the pastas.</p> <p>16 Q So do you understand this product that's</p> <p>17 described as egg whites solids to be a dried egg</p> <p>18 product?</p> <p>19 A Yes.</p> <p>20 Q And then below that it says "egg, dry</p> <p>21 white." Do you see that?</p> <p>22 A Uh-huh.</p> <p>23 Q What did, is that a different product than</p> <p>24 the dried egg white solids?</p> <p>25 A No, it would be the same thing.</p>	<p style="text-align: right;">68</p> <p>1 A Uh-huh.</p> <p>2 Q What does eggs, stripped IQF stand for?</p> <p>3 A Being that the supplier is Echo Lake, we</p> <p>4 bought the scrambled eggs from them, we would make</p> <p>5 like stuffed sandwiches for Smart Ones with those</p> <p>6 inside. I want to say that was just cut into strips.</p> <p>7 That's why they were called strips.</p> <p>8 Q And that's a pre-cooked egg product?</p> <p>9 A Pre-cooked scrambled egg.</p> <p>10 Q And on the very last, on the far left at</p> <p>11 the bottom of that page, it says "Informas call block</p> <p>12 through DEC." Do you see that?</p> <p>13 A Uh-huh.</p> <p>14 Q What were you referring to there?</p> <p>15 A Looks like that would mean Informa was</p> <p>16 looking to lock prices through December.</p> <p>17 Q Who is Informa?</p> <p>18 A Informa Economics is just a company that</p> <p>19 sells their industry, kind of economic research and</p> <p>20 different trends that they track and they do all</p> <p>21 different commodities.</p> <p>22 Q Does Heinz purchase egg market information</p> <p>23 from Informa?</p> <p>24 A They subscribe to Informa and then provide</p> <p>25 services.</p>
<p style="text-align: right;">67</p> <p>1 Q Okay. I see there is a different location</p> <p>2 code?</p> <p>3 A Right.</p> <p>4 Q What was location 22 again?</p> <p>5 A That's Mason.</p> <p>6 Q What does Mason manufacture?</p> <p>7 A They do the portion pack products.</p> <p>8 Q Then under that it says "egg solids whole."</p> <p>9 What does Heinz manufacture using whole egg solids?</p> <p>10 A Same thing in the pastas. We could use</p> <p>11 whites whole or yolks.</p> <p>12 Q And is this a dried product?</p> <p>13 A Yes, it is.</p> <p>14 Q Below that it says "whole egg pails." Do</p> <p>15 you see that?</p> <p>16 A Yes.</p> <p>17 Q Is that a dried or a liquid product?</p> <p>18 A That would be a liquid product.</p> <p>19 Q What does Heinz manufacture using liquid</p> <p>20 whole egg?</p> <p>21 A We would use that in, very likely, we had a</p> <p>22 lasagna that you would add it to the filling to make</p> <p>23 it fluffy.</p> <p>24 Q And then the last one on that sheet says</p> <p>25 "eggs, stripped IQF"?</p>	<p style="text-align: right;">69</p> <p>1 Q When did Heinz begin describing to Informa?</p> <p>2 A I don't know.</p> <p>3 Q I take it they subscribed to Informa in</p> <p>4 October 2007 when this document was created?</p> <p>5 A Yes, yeah. At least when I started they</p> <p>6 were already working with them.</p> <p>7 Q So it says Informa recommended to lock</p> <p>8 prices through December. That's what your testimony</p> <p>9 is?</p> <p>10 A Looking at that, I would say that's what</p> <p>11 that meant, yes.</p> <p>12 Q And how would you go about locking prices</p> <p>13 through December, if it was October 24th, 2007?</p> <p>14 A Um, you said this is in October, so --</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 Q Let me ask it a better way.</p> <p>17 A Okay.</p> <p>18 Q What does the term lock prices mean?</p> <p>19 A So that would be --</p> <p>20 MR. AHERN: Same objection.</p> <p>21 A That would mean, you know, getting with the</p> <p>22 supplier and instead of doing a market based price,</p> <p>23 agree to a set price for a certain period of time.</p> <p>24 Q Is that something you did from time to time</p> <p>25 when you were the egg buyer for Heinz?</p>

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<p style="text-align: right;">70</p> <p>1 A It is something I did, yeah. Yes.</p> <p>2 Q You can set Exhibit 4 aside.</p> <p>3 Does Heinz buy shell eggs?</p> <p>4 A No.</p> <p>5 Q To your knowledge, has Heinz purchased any</p> <p>6 shell eggs since 1999?</p> <p>7 A No, they did not.</p> <p>8 Q So Heinz purchases egg products?</p> <p>9 A Yes.</p> <p>10 Q What does the term egg products mean to</p> <p>11 you?</p> <p>12 A Egg products are further processed eggs.</p> <p>13 So eggs that have been broken and put into a format</p> <p>14 that is easily used by a further processor like Heinz.</p> <p>15 Q Do you consider mayonnaise to be an egg</p> <p>16 product?</p> <p>17 A I don't.</p> <p>18 Q Does Heinz consider mayonnaise to be an egg</p> <p>19 product for purposes of this litigation?</p> <p>20 MR. AHERN: Object to the form.</p> <p>21 A I don't know. I mean it seems to be</p> <p>22 separate, but.</p> <p>23 Q Who supplied Heinz with egg products during</p> <p>24 your time as the egg buyer?</p> <p>25 A Rose Acre, Golden Oval, Sonstegard, Michael</p>	<p style="text-align: right;">72</p> <p>1 Q Do you know if there are any entities that</p> <p>2 are not listed on Exhibit 3 that Heinz now purchases</p> <p>3 egg products from?</p> <p>4 A So Golden Oval I believe was bought by</p> <p>5 Rembrandt, and I think we buy from Rembrandt or we</p> <p>6 have at some point.</p> <p>7 Like I said, we don't buy from Siegel Egg</p> <p>8 any more. And Echo Lake had a fire, like, I don't</p> <p>9 know, a year ago. So I don't know if we still buy</p> <p>10 from them any more.</p> <p>11 You know, I'm just not in it any more, so I</p> <p>12 really don't know the supply base. But I could find</p> <p>13 that out.</p> <p>14 (THEREUPON, Deposition Exhibit 5 was marked</p> <p>15 for identification.)</p> <p>16 Q You have been handed what's been marked as</p> <p>17 Exhibit 5, which for the record is a document with the</p> <p>18 bates range Heinz 00005346 through 5377. It is a</p> <p>19 fairly lengthy document.</p> <p>20 If at any point in time when I ask you</p> <p>21 questions, you feel like you need to read the whole</p> <p>22 thing or additional portions to have the appropriate</p> <p>23 context, just let me know.</p> <p>24 I will walk you through different pages of</p> <p>25 the document where I have specific questions.</p>
<p style="text-align: right;">71</p> <p>1 Foods, Siegel Egg. Everybody that was on this list.</p> <p>2 I don't know if I missed anybody.</p> <p>3 Q Sure, if you want to reference one of the</p> <p>4 prior exhibits.</p> <p>5 A Yeah, so would have been, I think I said</p> <p>6 everybody there. Echo Lake.</p> <p>7 Q What Exhibit are you looking at just for</p> <p>8 the record?</p> <p>9 A Exhibit 3. So everyone listed here.</p> <p>10 Q Does Heinz still purchase egg products from</p> <p>11 each of those suppliers?</p> <p>12 MR. AHERN: Today?</p> <p>13 MR. SCHWINGLER: Today.</p> <p>14 A I would have to probably ask somebody that.</p> <p>15 Definitely not Siegel Egg because we don't own those</p> <p>16 businesses any more.</p> <p>17 Q What businesses are you referring to?</p> <p>18 A The desserts businesses.</p> <p>19 Q When did Heinz -- first of all, did Heinz</p> <p>20 sell the desserts businesses?</p> <p>21 A Yes.</p> <p>22 Q Do you know when Heinz sold those</p> <p>23 businesses?</p> <p>24 A That would have been in maybe 2010,</p> <p>25 2011-ish.</p>	<p style="text-align: right;">73</p> <p>1 A Okay.</p> <p>2 Q But I do want to make sure you feel like</p> <p>3 you've been able to read enough so you can answer the</p> <p>4 questions fully.</p> <p>5 A Okay.</p> <p>6 Q So just let me know if you need to read,</p> <p>7 you know, additional portions to understand my</p> <p>8 question and answer it more accurately.</p> <p>9 Just on the first page of this document,</p> <p>10 says on the top left "Purchasing Academy." What is</p> <p>11 the Purchasing Academy?</p> <p>12 A The Purchasing Academy was a training that</p> <p>13 all of the buyers were put through in order to deliver</p> <p>14 a strategy on all of our portfolios. And so different</p> <p>15 templates that are used in here came from the</p> <p>16 Purchasing Academy.</p> <p>17 Q And in the middle of the page it says</p> <p>18 Global Ingredients Council Meeting. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What is the Global Ingredients Council?</p> <p>21 A So that would be a meeting of leadership</p> <p>22 and procurement throughout the globe that we are kind</p> <p>23 of talking to each other about our synergies, anything</p> <p>24 making sense, anything we can glean off of a different</p> <p>25 area.</p>

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<p style="text-align: right;">74</p> <p>1 Q Is this council internal to Heinz?</p> <p>2 A Yes.</p> <p>3 Q And I see your name here on the first page.</p> <p>4 Did you create this document?</p> <p>5 A Yes.</p> <p>6 Q And it says September 2008. So did you</p> <p>7 create this document in or about September 2008?</p> <p>8 A Yes.</p> <p>9 Q Have you turn to the page ending in 5350</p> <p>10 which is the fifth page in.</p> <p>11 A Uh-huh.</p> <p>12 Q The top of the page it says "Source Plan</p> <p>13 Situation Target Proposal."</p> <p>14 A Uh-huh.</p> <p>15 Q Can you explain to me what the, generally</p> <p>16 what the purpose of this slide is?</p> <p>17 A Sure. It was one of the tools out of the</p> <p>18 purchase academy. STP just means situation target and</p> <p>19 proposal. You break down what the current situation</p> <p>20 is.</p> <p>21 Where as a buyer, you want to take the,</p> <p>22 what, kind of what your end point of that portfolio</p> <p>23 for the future, and then proposal would be how you are</p> <p>24 going to get there.</p> <p>25 Q Okay. So says here leader and then</p>	<p style="text-align: right;">76</p> <p>1 When it says issue definition, what do you</p> <p>2 mean?</p> <p>3 A Uh-huh. So this STP can be used for</p> <p>4 anything, really, anything in the whole world.</p> <p>5 So it just wants to narrow down in maybe</p> <p>6 one sentence why you even are doing one.</p> <p>7 So this would be, you know, why I'm doing</p> <p>8 an STP is to develop a sourcing and risk management</p> <p>9 strategy for egg products.</p> <p>10 Q What do you mean by risk management</p> <p>11 strategy?</p> <p>12 A Risk management means managing any kind of</p> <p>13 risk to our budget that we would set, because our goal</p> <p>14 is to meet our budget that we set at the beginning of</p> <p>15 the year.</p> <p>16 Q I take it risk management has something to</p> <p>17 do with managing risk; is that fair?</p> <p>18 A Yes.</p> <p>19 Q And what risks are you seeking to manage?</p> <p>20 A Risks from a cost standpoint. So, you</p> <p>21 know, like I said, we place a plan in place from our</p> <p>22 AOP budget plan, and then we want to manage that risk,</p> <p>23 that way we will actually meet it. So how can we</p> <p>24 deliver the plan that we put in place.</p> <p>25 Q And the risk that you are seeking to manage</p>
<p style="text-align: right;">75</p> <p>1 Michelle Kamzalow; is that correct?</p> <p>2 A Yes.</p> <p>3 Q And I take it that means you were the</p> <p>4 leader?</p> <p>5 A Yes.</p> <p>6 Q And what does that mean in this context to</p> <p>7 be the leader of the STP?</p> <p>8 A It means I was going to be the one that</p> <p>9 would put the plan together.</p> <p>10 Q Were there others that you worked with</p> <p>11 within Heinz to put together the plan?</p> <p>12 A No, I'd say no.</p> <p>13 Q If you see to the right it says "team,"</p> <p>14 Michelle Kamzalow and Mauricio Sirgo.</p> <p>15 A Uh-huh.</p> <p>16 Q Did you work with Mr. Sirgo putting</p> <p>17 together the STP for this time frame?</p> <p>18 A I would say no. I did it myself and then I</p> <p>19 was presenting it to him.</p> <p>20 Q If you look below leader it says "issue</p> <p>21 definition."</p> <p>22 A Uh-huh.</p> <p>23 Q Can you explain what information is set</p> <p>24 forth under issue definition?</p> <p>25 Let me ask a better description.</p>	<p style="text-align: right;">77</p> <p>1 is the risk that your ingredient prices will increase?</p> <p>2 A Right.</p> <p>3 Q You're perfectly happy if the ingredient</p> <p>4 prices decrease?</p> <p>5 A I wouldn't complain.</p> <p>6 Q So under the next sort of box down it says</p> <p>7 "situation."</p> <p>8 A Uh-huh.</p> <p>9 Q Is this where you're describing sort of the</p> <p>10 background context of the project?</p> <p>11 A Yes.</p> <p>12 Q The third bullet down says "difficult to</p> <p>13 make changes in supplier of enzyme modified emulsa and</p> <p>14 custom cooked item."</p> <p>15 A Uh-huh.</p> <p>16 Q "Long approval process and R&D resource."</p> <p>17 A Yes.</p> <p>18 Q Can you explain to me what you mean with</p> <p>19 that statement?</p> <p>20 A Sure. So the enzyme modified emulsa and</p> <p>21 the cooked items are not a commodity item that</p> <p>22 everybody produces, that you can't just, you know, a</p> <p>23 Liquid A from one supplier and Liquid A from another</p> <p>24 supplier are probably pretty similar.</p> <p>25 However, this enzyme modified emulsa</p>

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<p style="text-align: right;">78</p> <p>1 technology is something that Michael Foods developed, 2 so wouldn't be as easy to find anybody else to do it. 3 Same with the cooked item. We have an 4 ingredient specification on it because it's used in 5 Smart Ones, has to be low fat and different things 6 like that. And to get R&D resource to approve an 7 alternate supplier is just a lengthy process and it's 8 just not as easy to do. 9 Q So where it says "custom cooked item," is 10 this referring to an egg product that was developed as 11 a custom product for Heinz? 12 A It could have been. I think that, you 13 know, like an Echo Lake if they were selling, they 14 would probably try to sell us something they already 15 are making. 16 But because it's for Smart Ones and we had 17 to have low fat, it may have been a custom product. I 18 don't know that answer. 19 Q To your Smart Ones as an example, if the 20 supplier was not able to meet those exact 21 specifications, would Heinz have been able to purchase 22 from that supplier? 23 A No. 24 MR. AHERN: Object to the form. 25 Q Let me ask it a little bit better.</p>	<p style="text-align: right;">80</p> <p>1 Heinz ended up using may have been the result of some 2 back and forth between Heinz and the egg product 3 supplier? 4 A Right. 5 MR. AHERN: Object to the form. 6 A For that cooked item. Only on like a 7 cooked, something that was unique to what Heinz was 8 asking for. So I'm not saying -- it's possible they 9 sold that to somebody else, I don't know. But it's 10 also possible that because we said, oh, we need it to 11 be this size and this kind of nutritional level, it 12 could have been just for us. I honestly don't know if 13 they sold it to anyone else or not. 14 Q Regardless of the actual process that 15 resulted in the spec, at some point in time, Heinz 16 developed a product specification, for example, for 17 the Smart Ones -- 18 A Uh-huh. 19 Q -- product? And once that specification 20 was in place, is it correct that it would become 21 difficult to switch to a different supplier due to the 22 fact that there was a spec that was already there? 23 MR. AHERN: Object to the form. 24 A It would just depend on the other 25 supplier's capabilities.</p>
<p style="text-align: right;">79</p> <p>1 Were suppliers required to meet any custom 2 specifications that Heinz needed? 3 A I think that's a little bit tricky of a 4 question. 5 MR. AHERN: Object to the form. 6 A Only because really like the supplier would 7 tell us what they could do. Like we would say we want 8 it to be low in fat and low in sodium and that type of 9 thing. 10 They might say, well, I can only do this. 11 And then they would say is that acceptable, and we 12 would say yes. So that's how it could become kind of 13 a custom thing. 14 But -- so I mean Heinz didn't totally 15 develop the specification and give it to the very 16 first supplier and say can you match it. It was 17 probably whoever had the original business, probably 18 was a back and forth and we said we want this, they 19 said we can do this. 20 So to move that to another supplier, then 21 it became our specification. But it didn't originate 22 with us with the specification. Usually built with 23 the supplier that you are working with at the time. 24 Q Just so I understand the process, in 25 certain instances, the ultimate product spec that</p>	<p style="text-align: right;">81</p> <p>1 Q Here it says "long approval process"? 2 A It does, yes. It is a long approval 3 process just because our R&D it's hard to get 4 resources to qualify an alternate. They are working 5 on new product development and they, it's usually low 6 on the list. 7 Q When you are referring to the long approval 8 process, are you referring to the process of approving 9 a new supplier? 10 A Yes. 11 Q Who within Heinz is involved in the 12 approval process for a new supplier of egg products? 13 A R&D as well as our QA department. 14 Q QA stands for quality assurance? 15 A Yes. 16 Q Next bullet down says "Commodity items also 17 need alternate vendor approval. Necessitates R&D 18 resource." 19 What are you referring to there? 20 A Commodity items, liquid whole eggs or 21 liquid yolk, something that's not, it's something 22 that's more like an industry standard. But would 23 still need to be evaluated by R&D. 24 Q So regardless of whether an egg product is 25 a special product like an enzyme modified yolk or a</p>

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<p style="text-align: right;">82</p> <p>1 commodity product, if Heinz were to switch suppliers, 2 R&D would need to be involved?</p> <p>3 A Right.</p> <p>4 Q And R&D would need to approve the new 5 supplier?</p> <p>6 A Right. Yes.</p> <p>7 Q Next bullet down, sorry, two bullets down 8 says "Pricing Mechanisms. Lock for set amount of time 9 at fixed price with floor and ceiling, or with ceiling 10 only. Grain-based pricing for three years or ride 11 market."</p> <p>12 Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Can you just walk me through each of those 15 items that are listed there and explain what you 16 meant?</p> <p>17 A Sure. Lock for set amount of time at fixed 18 price means negotiating a fixed price with a supplier 19 for whatever amount of time.</p> <p>20 Pretty self-explanatory.</p> <p>21 With floor and ceiling means we agree to a 22 market, Urner Barry market and we set a floor and a 23 ceiling price.</p> <p>24 So for liquid whole eggs, we say it's not 25 going to go below 60 cents and we are not going to pay</p>	<p style="text-align: right;">84</p> <p>1 past and just go off of what that market price was.</p> <p>2 Q So just drawing back to grain based for a 3 moment, did I hear you correctly that Heinz was not 4 interested in grain-based pricing for egg products?</p> <p>5 A No, they just weren't interested in doing 6 any kind of long-term commitment.</p> <p>7 Q Which supplier spoke to Heinz about 8 grain-based pricing around this time?</p> <p>9 A Golden Oval.</p> <p>10 Q Any other suppliers?</p> <p>11 A Not that I know.</p> <p>12 Q So just starting with the first option, 13 "lock for set amount of time at fixed price," was that 14 a pricing mechanism that Heinz employed between 1999 15 and 2008?</p> <p>16 A Yes.</p> <p>17 Q It says here "set amount of time." How was 18 the set amount of time for a given contract 19 determined?</p> <p>20 A Whatever Heinz, however long Heinz wanted 21 to do it.</p> <p>22 Q And did that vary depending on the 23 contract?</p> <p>24 A It definitely did, yes.</p> <p>25 Q The next one is the "price floor and</p>
<p style="text-align: right;">83</p> <p>1 below 60 cents and we're not going to go above 70 2 cents.</p> <p>3 So that we know that, for us, we can budget 4 that our price is going to stay within that amount. 5 But then the supplier, you know, they can't, if the 6 market goes crazy, they can only charge us that 7 ceiling price.</p> <p>8 If it goes below, then, you know, we still 9 get charged that floor price.</p> <p>10 Ceiling only means putting a cap on our 11 pricing so we will ride the market, but you are never 12 going to charge me more than like 80 cents, for 13 example. And that would be in agreement with the 14 supplier.</p> <p>15 Talk to a supplier about grain-based 16 pricing where basically they, you know, they said it 17 was like a three year commitment because we would kind 18 of know the inputs of the grain going into those, for 19 those chickens, and those chickens I think they would 20 keep them hatching eggs for three years, so we kind of 21 with that flock the whole time. That wasn't something 22 we were really interested in at all, Heinz didn't want 23 to do that.</p> <p>24 And then ride the market is just using the 25 Urner Barry we would just do what we have been in the</p>	<p style="text-align: right;">85</p> <p>1 ceiling." Is that a pricing mechanism that Heinz 2 employed between 1999 and 2008?</p> <p>3 A Yes.</p> <p>4 Q How were the floors and ceilings 5 determined?</p> <p>6 A It would have to be agreed upon between 7 Heinz and the supplier.</p> <p>8 Q I take it that's the case for the "ceiling 9 only" as well?</p> <p>10 A Right.</p> <p>11 Q And let me back, step back. 12 For the "fixed price mechanism," has Heinz 13 purchased any egg products on a fixed price for a set 14 amount of time since 2008?</p> <p>15 A I would say yes.</p> <p>16 Q Okay. And grain based, has Heinz purchased 17 any egg products using a grain basis, first between 18 1999 and 2008?</p> <p>19 A No.</p> <p>20 Q Has Heinz purchased any egg products on a 21 grain basis between 2008 and present?</p> <p>22 A No.</p> <p>23 Q And the last one "ride the market," just to 24 clarify, does that just mean pay the current market 25 price?</p>

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<p style="text-align: right;">86</p> <p>1 A It does, yes.</p> <p>2 Q When Heinz rides the market, how often does</p> <p>3 it calculate the price that will be paid?</p> <p>4 A It depends on the supplier. Mostly it's on</p> <p>5 a monthly basis, but I believe there were some</p> <p>6 suppliers that would do it weekly.</p> <p>7 Q And between 1999 and 2008 did Heinz</p> <p>8 purchase egg products by riding the market?</p> <p>9 A Yes.</p> <p>10 Q And has Heinz continued to ride the market</p> <p>11 on egg products since 2008?</p> <p>12 A There has been multiple strategies since</p> <p>13 then, so that would have been one of them.</p> <p>14 Q Do you know whether the pricing mechanism</p> <p>15 that Heinz used depended at all on the actual product</p> <p>16 that was being purchased?</p> <p>17 A It does, because the scrambled eggs that we</p> <p>18 would buy from Echo Lake, they are much -- it just</p> <p>19 seemed to do like a fixed price on that because there</p> <p>20 is no market for scrambled eggs. So that would be an</p> <p>21 example of a fixed price.</p> <p>22 Q All right. Turn to the page ending in</p> <p>23 5353. At the top it says "supplier spend breakdown FY</p> <p>24 09 Q1 spend." Do you see that?</p> <p>25 A Uh-huh.</p>	<p style="text-align: right;">88</p> <p>1 impact would be high, it would be easy to do and the</p> <p>2 value benefit would be high.</p> <p>3 And then you end up placing it, you know,</p> <p>4 on this easy, tough, to small pay off, high, big pay</p> <p>5 off and then you pull out those opportunities on the</p> <p>6 table on the left side. Just to find out, you know,</p> <p>7 out of all the opportunities, what are the bigger ones</p> <p>8 you want to go after.</p> <p>9 Q On the right side, sort of third of the way</p> <p>10 down the page in that grid, under the column "click</p> <p>11 win," do you see that?</p> <p>12 A Uh-huh.</p> <p>13 Q If you go down two rows, it says "test and</p> <p>14 approve alternate suppliers of liquid yolk." Do you</p> <p>15 see that?</p> <p>16 A Yes.</p> <p>17 Q And then a few columns over under owner "MK</p> <p>18 and R&D teams." Do you see that?</p> <p>19 A Uh-huh.</p> <p>20 Q Is "MK" a reference to you?</p> <p>21 A Yes.</p> <p>22 Q And then it says "by when, Q4 of fiscal</p> <p>23 year 2009." Do you see that?</p> <p>24 A Uh-huh.</p> <p>25 Q So can you just explain to me what this</p>
<p style="text-align: right;">87</p> <p>1 Q And the suppliers that are listed on this</p> <p>2 page are the suppliers that we talked about before.</p> <p>3 There is one that says Best Brands. Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Who is Best Brands?</p> <p>6 A Best Brands, I believe they were more of</p> <p>7 like a distributor and we had acquired a business</p> <p>8 called Todd's and they are in California and they</p> <p>9 handled their own local buying. So it would have gone</p> <p>10 through them. I didn't necessarily manage that. But</p> <p>11 they had like a local buyer.</p> <p>12 Q What did Todd's manufacture?</p> <p>13 A Sauces and soups and dressings.</p> <p>14 Q Do you know what types of products that</p> <p>15 Todd's used?</p> <p>16 A No.</p> <p>17 Q If you could turn to the page ending in</p> <p>18 5356. At the top it says "source plan click wins."</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q What does this page describe?</p> <p>22 A This is a tool from the Purchasing Academy</p> <p>23 that says, that helps you rate -- so if you identify</p> <p>24 different opportunities within your portfolio, like</p> <p>25 that box on the right, so RFQ, FY 10 business, the</p>	<p style="text-align: right;">89</p> <p>1 entry in that grid means?</p> <p>2 A Sure. So each column of the grid is that</p> <p>3 what you mean?</p> <p>4 Q Generally what are you describing here.</p> <p>5 A Okay. So the impact, again, it's kind of</p> <p>6 to help plot this left side. So on impact, put</p> <p>7 medium, so how much savings is there when you kind of</p> <p>8 compare all the opportunities, there is a medium</p> <p>9 opportunity. Should it be easy or hard, you know,</p> <p>10 easy to difficult.</p> <p>11 Usually low would be pretty easy to do, the</p> <p>12 benefit of the value, medium. Owner and then, you</p> <p>13 know, when you think you could be done, when could</p> <p>14 those benefits be realized.</p> <p>15 Q So by "owner," does that mean who is</p> <p>16 responsible for it?</p> <p>17 A Yeah, who would be involved getting it</p> <p>18 done.</p> <p>19 Q And "test and approval alternate suppliers</p> <p>20 of liquid yolk," does this mean that Heinz was</p> <p>21 considering testing other or evaluating other</p> <p>22 suppliers of liquid egg yolks?</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A All this means is that I was thinking it</p> <p>25 would be a good idea.</p>

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<p style="text-align: right;">90</p> <p>1 Q Yeah, so maybe that's a better question. 2 What I'm trying to get at here is, are the 3 things listed in this grid things that Heinz actually 4 did? 5 A No, not necessarily. 6 Q Are they things -- are they things Heinz 7 was considering doing? 8 A It was things that I was presenting to this 9 global council that I thought would be a way to help 10 transform my portfolio. 11 Q And do you know, for example, "test and 12 approve alternate suppliers of liquid yolk," did Heinz 13 undertake that process as a result of this STP? 14 A No. 15 MR. AHERN: In September 2008 or beyond? 16 Q As a result of this specific process you 17 were going through? 18 A As a result of this process, no. 19 Q Is that also true for the entry below "test 20 and approve alternate suppliers of liquid whole egg"? 21 A I'm not sure. I think that there may have 22 been some action on the whole egg, but I don't think 23 it was a result of this. It was more a result of just 24 a supply concern. 25 Q Then a couple entries down it says</p>	<p style="text-align: right;">92</p> <p>1 Q The last bullet under observations says 2 "need to determine strategy of transactional versus 3 strategic supplier." What do you mean by 4 transactional versus strategic supplier? 5 A Transactional just means, you know, I may 6 never or hardly ever talk to that supplier. We just 7 have transactions, we buy from them, we pay them. 8 That's it. 9 Strategic supplier might be someone who, 10 you know, is meeting other goals for Heinz in the way 11 of maybe good payment terms or has an innovation that 12 might give Heinz a competitive advantage, you know, 13 they might say we have this new technology or 14 something like that, something that kind of separates 15 them from a transactional supplier. 16 Q If you turn to the page ending in 5358. 17 Top of the page it says "day 1 analysis egg 18 products." Do you see that? 19 A Yes. 20 Q What does this page describe? 21 A Day 1 analysis is a tool that is, so if you 22 are the day 1 looking at, this is a portfolio and the 23 first day you were on the portfolio, what does it look 24 like, what does your portfolio seem to be like. 25 So and then it wants you to plot your type</p>
<p style="text-align: right;">91</p> <p>1 "investigate alternate suppliers for enzyme modified." 2 Do you see that? 3 A Yes. 4 Q Is that something that you did following 5 this conference? 6 A I would say no. 7 Q If you go down to near the bottom of the 8 page, you see where it says "observations"? 9 A Yes. 10 Q The second to last bullet says "there is 11 great potential in this category for leverage, buy-in 12 from stakeholders. R&D resources are required." Do 13 you see that? 14 A Uh-huh. 15 Q What do you mean by leverage? 16 A That would mean that I could get perhaps 17 more negotiating power with suppliers if I had more 18 suppliers approved on similar items. 19 Q When you say "buy-in from stakeholders," 20 what do you mean? 21 A Buy-in from stakeholders means, so 22 stakeholders would be like R&D, if I had their buy-in 23 on it, then it would be easier to make those changes 24 because they have buy-in into like this is what we are 25 going to do to help the portfolio.</p>	<p style="text-align: right;">93</p> <p>1 of items on that, on the four blocker there. 2 It's saying we're in a, the cooked to 3 salted eggs, I'm sorry, cooked standard egg items and 4 enzyme yolk have the behavior of acting like they are 5 customary and proprietary to Heinz and we can't buy 6 them from anyone else. 7 In reality, the behavior should be the 8 actual position would be it's a generic item that we 9 can buy from multiple sources. 10 Q If you look at the, in the middle of the 11 page under "standard egg items," "liquid frozen powder 12 and EM." EM stand for enzyme modified? 13 A Yes. 14 Q If you go down to "justification for 15 current behavior position." Do you see that? 16 A Yes. 17 Q What is that describing? 18 A Justification for current behavior, current 19 behavior is we are acting as if, and then this is 20 what, it's kind of pulled back to, we're acting like 21 we only have one supplier. 22 Because we only have one approved supplier 23 on that item. 24 Q So the first bullet under "justification 25 for current behavior position" says "only purchasing</p>

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<p style="text-align: right;">94</p> <p>1 from one supplier, only one approved supplier." Is 2 that a reference to Michael Foods? 3 A Well, and -- it's a reference to 4 everything. 5 Q So for each of the egg products that is 6 being referenced in this little chart, Heinz only 7 purchased from one supplier at that time? 8 A Right, right. Like everything was only -- 9 you know, that whole list we looked at only had one 10 supplier approved on everything. 11 Q So different products could have had 12 different suppliers, but for a given product, Heinz 13 only purchased from one supplier? 14 A Right. 15 Q The second bullet says "current supplier 16 offers risk management opportunities on raw material." 17 A Uh-huh. 18 Q See that? 19 A Uh-huh. 20 Q What are you referring to there? 21 A That means they were willing to work with 22 us on one of those pricing mechanisms. 23 Q So by "they," you mean the supplier? 24 A The supplier, yes. 25 Q And raw material is referring to the --</p>	<p style="text-align: right;">96</p> <p>1 the record. The time is 11:17 a.m. 2 BY MR. SCHWINGLER: 3 Q Ms. Kamzalow, we're still looking at what I 4 believe is Exhibit 5. Have you turn to page, the page 5 ending in 5362. 6 Top of the page it says "source plans 7 PESTLE analysis." Do you see that? 8 A Uh-huh. 9 Q Can you explain what PESTLE analysis is? 10 A PESTLE analysis, p-e-s-t-l-e, and kind of 11 different factors in the world, political, economical, 12 social, technological, legal, environmental, factors 13 within whatever commodity we're talking about. 14 Q So here it says "PESTLE analysis eggs"? 15 A Yes. 16 Q So this page contains a PESTLE analysis of, 17 I assume, egg products? 18 A Right. 19 Q If you go to the box that says "economic"? 20 A Uh-huh. 21 Q See the first bullet point, says "demand 22 decreased due to economic recession." See that? 23 A Yes. 24 Q What were you referring to there? 25 A Well, I mean, I'm definitely not an</p>
<p style="text-align: right;">95</p> <p>1 A Just any material. Could be any egg. 2 Q Next bullet says "approval process is 3 rigorous and time consuming." 4 A Yes. 5 Q When you say approval process, are you 6 referring to the process of approving an alternate 7 supplier? 8 A Yes. 9 Q And then the next bullet says "EMY," is 10 that enzyme modified yolk? 11 A Yes. 12 Q "Proven desirable functionality over 13 standard egg yolk." 14 A Uh-huh. 15 Q Is that a reference to what you described 16 before about the emulsification properties of the 17 enzyme modified product? 18 A Yes. 19 MR. SCHWINGLER: We should go off the 20 record and take a quick break. 21 VIDEOGRAPHER: This ends tape number 2. We 22 are off the record. The time is 11:05 a.m. 23 (Recess taken.) 24 VIDEOGRAPHER: This begins tape number 3 of 25 the deposition of Michelle Kamzalow. We are on</p>	<p style="text-align: right;">97</p> <p>1 economics major or anything like that, but overall at 2 the time back in 2007 and '8 is whenever we saw big 3 increase in food prices, you know, eggs was one of 4 them, grains was one of them. 5 And so it was called also a recession so 6 there was changes overall with the recession everyone 7 was encountering. 8 Q The next bullet says "egg layer numbers 9 increasing into 2009." 10 A Uh-huh. 11 Q What were you referring to with that 12 statement? 13 A So we were in 2008, so that would, that 14 would have been someone's projection that they shared 15 with me that the egg layer numbers were projected to 16 increase into 2009. 17 Q Next bullet down says "egg product pricing 18 often follows egg market but not always." 19 Can you explain what you meant by that 20 statement? 21 A So there is egg product pricing and market, 22 and then there is like a show egg market. 23 I just feel like that's, you know, just a 24 general statement that sometimes we move with it and 25 sometimes it doesn't.</p>

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<p style="text-align: right;">98</p> <p>1 Q And you would agree with that statement 2 based on your observations of egg product prices in 3 your role as egg buyer? 4 MR. AHERN: Object to the form. 5 Q Let me ask again. When you were the egg 6 buyer for Heinz, you tracked the prices of egg 7 products; correct? 8 A Right. 9 Q And as a result of that exercise, did you 10 observe instances in which the prices of egg products 11 did not follow the prices of shell eggs? 12 MR. AHERN: Object to the form. 13 A You know, I honestly don't remember. Maybe 14 because that comment is in there, but I didn't really 15 follow the shell egg market as much. I think that 16 might have been just a comment to kind of tell people 17 that this is like a general thing that the egg 18 products are kind of their own market. 19 Q I think you testified earlier that you 20 received information from Informa about egg markets? 21 A Yes. 22 Q Did you receive information about egg 23 markets from any other sources? 24 A I definitely talked to suppliers a lot. 25 They would send me maybe some market updates here and</p>	<p style="text-align: right;">100</p> <p>1 are probably not for profit, yeah. 2 Q Apart from the profit or nonprofit, do you 3 understand that PETA is concerned about animal welfare 4 issues? 5 A Yes, yes. 6 Q And says here "PETA pushing for expansion 7 of cage sizes." What were you referring to? 8 A That that organization, you know, looking 9 after the welfare of animals, I think they are always, 10 welfare, I would say they want the chickens to be 11 comfortable. 12 You know, do I know for a fact that they 13 were pushing for expansion of egg sizes back in 14 2008 -- 15 MR. AHERN: You mean cage sizes? You just 16 said egg sizes. 17 A Cage sizes. You know, that could have been 18 something that came up back then. But I just think 19 they don't want animals to be uncomfortable. They 20 want them to be more comfortable, kind of thing. 21 Q But you reference PETA pushing for 22 expansion of cage sizes in this PESTLE analysis. 23 A Yes. 24 Q As we can see from the page in front of us; 25 correct?</p>
<p style="text-align: right;">99</p> <p>1 there, but done more conversational. 2 Q The next bullet down says "no true market 3 for egg products-Urner Barry." What did you mean by 4 that statement? 5 A So egg products doesn't have like a traded 6 futures market like grain or anything. The market is 7 kind of, there is a market pricing on the Urner Barry 8 that's more of an actual survey of prices actually 9 paid versus like a futures market. 10 Q Under sociological, do you see the first 11 bullet point that says "PETA pushing for expansion of 12 cage sizes"? 13 A Yes. 14 Q Can you explain who PETA is? 15 A People for the Ethical Treatment of 16 Animals, I believe. 17 Q What do you understand PETA's -- let me ask 18 just generally. What does PETA do? 19 MR. AHERN: Object to the form. 20 A I think they are just always trying to push 21 for more rights for animals. 22 Q Yes, that was a bad question. Let me ask. 23 Do you understand PETA to be an animal 24 rights, nonprofit organization? 25 A I really don't know -- I would agree they</p>	<p style="text-align: right;">101</p> <p>1 A Yes. 2 Q And who is the audience, who is the 3 intended audience of this document? 4 A So it's the Global Council which is our, so 5 procurement leadership in different parts of Heinz, in 6 the world. 7 Q So is it fair to say that by putting this 8 statement in this document, you understood it to be 9 true at that time? 10 A Yes. 11 MR. AHERN: Object to the form. 12 A I would say I thought so at the time, yes. 13 Q You weren't intending to provide false 14 information to anybody within Heinz? 15 MR. AHERN: Object to the form. 16 A No, I would not. 17 Q The next bullet down under sociological 18 says "EU cage-free eggs." 19 A Uh-huh. 20 Q Is EU a reference to the European Union? 21 A Yes. 22 Q What are you referring to in that bullet 23 point? 24 A I believe that at the time the EU, it was 25 pretty standard for them to have cage-free eggs which</p>

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<p style="text-align: right;">102</p> <p>1 that was not typical for us.</p> <p>2 Q Just generally speaking, on this, about</p> <p>3 this PESTLE analysis, are these factors that you</p> <p>4 believed could impact the price of egg products?</p> <p>5 MR. AHERN: Object to the form.</p> <p>6 A No, not necessarily. This is only to just</p> <p>7 say what's happening in the different, you know, from</p> <p>8 a political standpoint, that's happening in that</p> <p>9 industry. I think it would be extrapolating it into</p> <p>10 prices, but that's not really the point of the</p> <p>11 document.</p> <p>12 Q Under technological on the upper right</p> <p>13 corner, the second bullet says "egg powders may</p> <p>14 replace use of liquid eggs."</p> <p>15 A Yes.</p> <p>16 Q What are you referring to there?</p> <p>17 A That is, say instead of using, you know, a</p> <p>18 liquid, like we use a lot of liquid eggs, we could use</p> <p>19 powder some places, the liquid eggs for more</p> <p>20 versatility. Because at times when, you know, egg</p> <p>21 powders have like a longer shelf life, that give you</p> <p>22 more options.</p> <p>23 Q Then on the bottom right corner where it</p> <p>24 says environmental, one bullet point says "condition</p> <p>25 of grain crops impact feed costs and profit margin"?</p>	<p style="text-align: right;">104</p> <p>1 I've heard it enough times from suppliers.</p> <p>2 So that impacts the feed costs. That's</p> <p>3 going to impact the egg cost.</p> <p>4 I'm not saying this is necessarily Heinz</p> <p>5 profit margin, but it may impact anybody that's</p> <p>6 dealing with crops.</p> <p>7 Q Okay. If you turn to the page ending in</p> <p>8 5365. Top of the page it says "five forces analysis</p> <p>9 egg products." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q What is a five forces analysis?</p> <p>12 A So probably the page before that, yeah, the</p> <p>13 five forces analysis. Then you analyze the buyer's</p> <p>14 power, if it's high, medium or low, based on the five</p> <p>15 forces of the market.</p> <p>16 Q So let's actually stay on page 5364.</p> <p>17 A Okay.</p> <p>18 Q The bottom force listed possible</p> <p>19 substitutions. Do you see that?</p> <p>20 A Uh-huh, uh-huh.</p> <p>21 Q And the second bullet says "potential</p> <p>22 replacers, starch gums, whey protein." Do you see</p> <p>23 that?</p> <p>24 A Yes.</p> <p>25 Q What are you referring to there?</p>
<p style="text-align: right;">103</p> <p>1 A Yep.</p> <p>2 Q I believe earlier you testified that grain</p> <p>3 prices may have been impacted by I think it was</p> <p>4 ethanol, or I may be misremembering.</p> <p>5 But are you stating here that crop</p> <p>6 conditions can impact the costs to Heinz and Heinz's</p> <p>7 profit margin?</p> <p>8 MR. AHERN: Object to the form.</p> <p>9 Q Let me break it down.</p> <p>10 A Yeah.</p> <p>11 Q First of all, what are you saying in this</p> <p>12 bullet point?</p> <p>13 A So environmental, the condition of the</p> <p>14 grain crops impact feed costs, just that part, would</p> <p>15 be so if the grain crop itself, you know, was, you</p> <p>16 know, there was a drought or something like that, back</p> <p>17 in 2007 I don't remember -- I do remember, you know,</p> <p>18 that's whenever, kind of the alternative fuels were</p> <p>19 kind of a big topic.</p> <p>20 So the condition of the crops could impact</p> <p>21 the feed price, if there were less crops available,</p> <p>22 that's going to put pressure on the feed costs.</p> <p>23 Feed costs, I've been told by multiple egg</p> <p>24 suppliers, are one of the biggest inputs into what</p> <p>25 their costs are for eggs. That's my belief because</p>	<p style="text-align: right;">105</p> <p>1 A That means, so this is the first column of</p> <p>2 this document, that's standard no matter what you're</p> <p>3 analyzing. So this is, say, could you possibly</p> <p>4 substitute your egg with something else.</p> <p>5 So this is saying you could potentially</p> <p>6 replace an egg and get the same function if you</p> <p>7 substituted with a starch, gum or whey protein.</p> <p>8 Q All right. Turn to the page ending in</p> <p>9 5369.</p> <p>10 Top it says "supplier preferencing eggs."</p> <p>11 Do you see that?</p> <p>12 A Yeah.</p> <p>13 Q What does this page describe?</p> <p>14 A Okay. This is supposed to be how -- let me</p> <p>15 just familiarize myself with this. I haven't looked</p> <p>16 at this in a long time.</p> <p>17 So this would be how does a supplier view</p> <p>18 us. So I can't tell necessarily where it is, but with</p> <p>19 a lot of the suppliers, because we were most part</p> <p>20 sourced from maybe someone who is local, or I should</p> <p>21 say close in proximity to our plant that's using the</p> <p>22 product, we have kind of a small volume with multiple</p> <p>23 suppliers. So I think a lot of the suppliers, you</p> <p>24 know, could be like developed to be the businesses</p> <p>25 bigger.</p>

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<p style="text-align: right;">106</p> <p>1 For Michael Foods and Golden Oval, and then 2 I guess, so it just depends on what's the 3 attractiveness of the account, high or low, and then 4 what's the relative value of the business. 5 And then they are categorized based on 6 those. 7 Q And you are saying that attractiveness of 8 the account is from the supplier's perspective? 9 A Yes. 10 Q What about the relative value of business, 11 is that also from the supply's perspective? 12 A Yeah, I would say yeah, uh-huh. 13 Q If you turn to the page ending in 5371. 14 A Okay. 15 Q Top it says "egg supplier comparison score 16 card results." 17 A Uh-huh. 18 Q What does that page describe? 19 A This page is a score card, kind of used to 20 score each supplier on how they have performed over 21 the past, you know, some period of time. Back then, 22 just to kind of, how they measure against each other. 23 Q And how they measure against each other 24 based on different criteria; correct? 25 A Right, right.</p>	<p style="text-align: right;">108</p> <p>1 another supplier. 2 Q What do you mean by cost out activity? 3 A Cost out just means how we deduce our 4 costs, our input costs to the business. 5 Q So if there is a positive number in this 6 column, does that mean that that supplier did 7 something that helped Heinz improve its costs? 8 A Yes. 9 Q "Payment terms" is the next column over? 10 A Uh-huh. 11 Q That's a criteria that Heinz evaluated -- 12 let me phrase that in English. 13 Does this mean that Heinz evaluated its egg 14 suppliers, in part, based on the payment terms they 15 would offer? 16 A Yeah, all suppliers are, yeah. 17 Q The next column says "PT SC." What does 18 that stand for? 19 A That would be your payment term score. 20 Q Is that on a scale of 1 to 5? 21 A Yes. 22 Q So Siegel Egg has a 4.5. What does that 23 stand for? 24 A 4.5 out of 5 because they have their 25 payment terms 210 at 30. That was by far a very good</p>
<p style="text-align: right;">107</p> <p>1 Q And so one criteria is price? 2 A Yes. 3 Q One criteria is risk management? 4 A Yep. 5 Q And so you're evaluating these suppliers 6 based on how well they -- let me just ask you. When 7 you give Rose Acre a 5 for risk management, what does 8 that signify? 9 A That would have meant that they were 10 willing to work with us on risk management. 11 Q The next column over says "CVI Activity." 12 What does that refer to? 13 A CVI was an acronym for like a cost out, I 14 don't know, something value, cost value something. I 15 don't remember the acronym, but cost out activity. 16 So Rose Acre must have been working with us 17 on some kind of cost out activity, whether it's 18 approving them on alternate supplier or -- I don't 19 think they did anything else, so must have been maybe 20 I did a bid and they were lower and so I, you know, 21 was going to give them an opportunity on that, versus 22 another supplier. 23 And when I say lower, it's on total cost, 24 so that includes like the freight, so how far away 25 they were, so maybe given them an advantage over</p>	<p style="text-align: right;">109</p> <p>1 payment term. Rose Acre a net 7 is terrible. So they 2 got 0. 3 Q The next column over has four things 4 listed, "lead time," "service," "quality" and "ease of 5 execution." Do you see that? 6 A Uh-huh. 7 Q Starting with "lead time," what does that 8 refer to? 9 A The amount of time from the time our 10 factory places an order to the time it can be 11 delivered to our factory. We want it to be as small 12 as possible. 13 Q Why do you want it to be as small as 14 possible? 15 A Allows us more flexibility at our 16 factories. 17 Q "Service," what do you mean by service? 18 A Service would be, you know, on time 19 deliveries, not causing us a service interruption at 20 our plant. 21 Q And so service is criteria on which Heinz 22 evaluates its egg suppliers? 23 A Yeah, all suppliers. 24 Q Next column over is "quality"? 25 A Uh-huh.</p>

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<p style="text-align: right;">110</p> <p>1 Q Is that a reference to the quality of the</p> <p>2 egg product?</p> <p>3 A That's a reference of, so we track any kind</p> <p>4 of non-compliance to maybe our specifications or</p> <p>5 something is -- primarily we have at our factories</p> <p>6 they can track anything that's, you know, doesn't meet</p> <p>7 our spec or our C of A requirement.</p> <p>8 Q What do you mean by C of A?</p> <p>9 A C of A is Certificate of Analysis. So we</p> <p>10 would have certain things for each specification that</p> <p>11 are on the C of A. We need to make sure that those</p> <p>12 are -- the supplier is guaranteeing that the product</p> <p>13 meets certain criteria before it's delivered to our</p> <p>14 factory. And it's a certificate of analysis that</p> <p>15 comes with every shipment.</p> <p>16 Q So the Certificate of Analysis is a</p> <p>17 document that a supplier provides with the shipment</p> <p>18 confirming that all of Heinz's requirements have been</p> <p>19 met?</p> <p>20 A Right.</p> <p>21 Q And then "ease of execution," what do you</p> <p>22 mean by ease of execution?</p> <p>23 A Ease of execution was kind of a measure</p> <p>24 that we had back in 2007 and '8, at that time, and</p> <p>25 that was just really more of a subjective number. But</p>	<p style="text-align: right;">112</p> <p>1 we use to evaluate suppliers when we have a new</p> <p>2 supplier. It's kind of a different -- it's different.</p> <p>3 Q Sure, but I guess what I want to know is</p> <p>4 what significance do these rankings have?</p> <p>5 A To me, it was for me personally, to just</p> <p>6 rank how the suppliers are versus each other because</p> <p>7 they are kind of always played separately in their own</p> <p>8 businesses. So this is just one opportunity that I</p> <p>9 just took to rank them versus each other.</p> <p>10 Q Siegel Egg came in first place in this</p> <p>11 ranking; correct?</p> <p>12 A Yes.</p> <p>13 Q As a result of that, did Heinz award more</p> <p>14 business to Siegel Egg?</p> <p>15 A No.</p> <p>16 Q And then if you turn to page 5373. Top it</p> <p>17 says "source plans recommended option chosen."</p> <p>18 A Uh-huh.</p> <p>19 Q What does this page describe?</p> <p>20 A Okay. So seems like this is towards the</p> <p>21 end of the document, so what it would be is taking</p> <p>22 into account all the different like tools that were</p> <p>23 used in that Purchasing Academy to say kind of what</p> <p>24 I'm recommending out of all the options that were</p> <p>25 talked about. And then looks like kind of divided it</p>
<p style="text-align: right;">111</p> <p>1 it was like how easy is the supplier to do business</p> <p>2 with. They give you a hard time every time you talk</p> <p>3 to them or do they say what can I do for Heinz. So</p> <p>4 that's more of a subjective measurement.</p> <p>5 Q And then to the right it says "buyer</p> <p>6 support"?</p> <p>7 A Yeah.</p> <p>8 Q What do you mean by that?</p> <p>9 A I honestly have no idea. I don't remember</p> <p>10 that one at all.</p> <p>11 Q How about "NPD support", what does that</p> <p>12 mean?</p> <p>13 A NPD is new product development, and that</p> <p>14 would mean have that supplier supported any new</p> <p>15 product development launches, you know, in the past</p> <p>16 time period.</p> <p>17 Q So just going back through this whole</p> <p>18 chart, are each of the things listed on this chart</p> <p>19 factors that Heinz considers when selecting egg</p> <p>20 product suppliers?</p> <p>21 MR. AHERN: Object to the form.</p> <p>22 A No. I would say these are, this was</p> <p>23 personally my score card to help me kind of see how</p> <p>24 the suppliers ranked against each other.</p> <p>25 I would say this is, these are things that</p>	<p style="text-align: right;">113</p> <p>1 out on standard egg products.</p> <p>2 Q And the box "target strategies" in the</p> <p>3 middle of the page?</p> <p>4 A Uh-huh.</p> <p>5 Q See the fifth bullet point, says "eggs role</p> <p>6 in innovation"?</p> <p>7 A Uh-huh.</p> <p>8 Q What did you mean by that?</p> <p>9 A I mean, really hard to remember exactly</p> <p>10 what that means, honestly.</p> <p>11 I think that maybe it's just that they can</p> <p>12 play a role in innovation and maybe kind of highlight</p> <p>13 that more, because I believe suppliers were always</p> <p>14 coming to me saying what can we do and we want to meet</p> <p>15 with people. You know, they just want more business</p> <p>16 kind of thing.</p> <p>17 Q Turn to the next page ending in 5374, says</p> <p>18 "next steps eggs."</p> <p>19 A Uh-huh.</p> <p>20 Q And then down the left column at the bottom</p> <p>21 it says "contribution to innovation." Do you see</p> <p>22 that?</p> <p>23 A Uh-huh.</p> <p>24 Q To the right it says "fully understand</p> <p>25 needs of key stakeholders and understand suppliers'</p>

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<p style="text-align: right;">114</p> <p>1 capabilities"?</p> <p>2 A Uh-huh.</p> <p>3 Q Does that refresh your recollection at all</p> <p>4 about what you meant by "eggs role and innovation"?</p> <p>5 A Yeah, to me that supports kind of what I</p> <p>6 remembered is that, you know, like suppliers coming to</p> <p>7 me and saying, oh, what can we do to support, you</p> <p>8 know, innovation. And so that would be -- it's like</p> <p>9 really like two parts.</p> <p>10 So one is that we need to get R&D and the</p> <p>11 suppliers together so they can understand supplier</p> <p>12 capabilities, and then the stakeholders can say how</p> <p>13 can we use this to meet our needs.</p> <p>14 Q Set that document aside.</p> <p>15 Earlier you had mentioned Urner Barry.</p> <p>16 What is Urner Barry?</p> <p>17 A Urner Barry is a company that has a website</p> <p>18 that would track different pricing for different</p> <p>19 commodities. I really only used it for eggs.</p> <p>20 But they would track, so they have like egg</p> <p>21 products. You could click on eggs. You could click</p> <p>22 on egg products and then it would say different types</p> <p>23 of egg products like liquid, whole eggs, tankers and</p> <p>24 so that would be something that everyone could use for</p> <p>25 a pricing mechanism.</p>	<p style="text-align: right;">116</p> <p>1 containers, you know, high, low, or something like</p> <p>2 that.</p> <p>3 So we all like had to agree exactly what</p> <p>4 that price was. Because there was a little bit of</p> <p>5 things you may not know unless you were very specific</p> <p>6 about what it was, market we were both referring to.</p> <p>7 Q Are you familiar with the term breaking</p> <p>8 stock?</p> <p>9 A I definitely heard of it, yep.</p> <p>10 Q Do you know whether Heinz ever purchased</p> <p>11 egg products based off of the Urner Barry breaking</p> <p>12 stock quote?</p> <p>13 A I don't think so, no.</p> <p>14 Q Do you think, to your knowledge, did Heinz</p> <p>15 purchase off of the Urner Barry sort of product, I</p> <p>16 think you gave an example of a whole liquid whole egg?</p> <p>17 A Uh-huh.</p> <p>18 Q Another example might be liquid egg yolks.</p> <p>19 Do you know whether Heinz purchased an egg product</p> <p>20 using an Urner Barry product quote?</p> <p>21 A I guess what do you mean exactly? Is that</p> <p>22 what you are talking about the egg product quote, like</p> <p>23 a liquid whole egg?</p> <p>24 Q I'll just give you a hypothetical, which</p> <p>25 would be the price of liquid egg yolks plus freight,</p>
<p style="text-align: right;">115</p> <p>1 Q And you had testified earlier about one of</p> <p>2 the pricing mechanisms that Heinz has used is riding</p> <p>3 the market.</p> <p>4 A Uh-huh.</p> <p>5 Q When you refer to riding the market, do you</p> <p>6 mean purchasing egg products using an Urner Barry</p> <p>7 price?</p> <p>8 A I would say yes. So it would mean the</p> <p>9 pricing is through the supplier, but the supplier</p> <p>10 would reference, you know, the Urner Barry price.</p> <p>11 Q Just want to ask a question about a typical</p> <p>12 transaction where Heinz would purchase an egg product</p> <p>13 using a price from a supplier that was based off of</p> <p>14 Urner Barry.</p> <p>15 Do you know whether the -- do you know</p> <p>16 which Urner Barry product was used to determine, for</p> <p>17 example, liquid whole -- let me withdraw that</p> <p>18 question.</p> <p>19 You understand that Urner Barry has more</p> <p>20 than one price listed every day?</p> <p>21 A I mean, I think that they describe them a</p> <p>22 little bit different. I'm trying to think back.</p> <p>23 Like it was definitely like you had to be</p> <p>24 very specific so we all new we were talking about the</p> <p>25 same thing, Urner Barry liquid whole eggs, in portable</p>	<p style="text-align: right;">117</p> <p>1 based on the Urner Barry May 15th, 2008. Is that the</p> <p>2 type of, would that transaction -- see if I can put</p> <p>3 this in a way that's a little bit more clear.</p> <p>4 Maybe I'll ask it more generally.</p> <p>5 Do you know which Urner Barry quotes were</p> <p>6 used in determining the prices of egg products</p> <p>7 purchased by Heinz?</p> <p>8 A That was written down somewhere. I don't</p> <p>9 know offhand, but I do know that it was different per</p> <p>10 supplier.</p> <p>11 Q So it could have varied based on which</p> <p>12 supplier you were buying from?</p> <p>13 A Yeah.</p> <p>14 Q And could it have varied based on which</p> <p>15 product you were buying?</p> <p>16 A Oh, yeah, right.</p> <p>17 Q When Heinz purchased an egg product using</p> <p>18 an Urner Barry or market price, how was the actual</p> <p>19 delivered price determined -- for example, was it the</p> <p>20 Urner Barry price plus some amount for freight, plus</p> <p>21 some amount for some other -- basically was it sort of</p> <p>22 a cost plus, or did you just pay a number that was</p> <p>23 given to you by the supplier?</p> <p>24 A It was always like a cost plus.</p> <p>25 Q So you understood all of the different</p>

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<p style="text-align: right;">118</p> <p>1 components of the delivered price that Heinz 2 ultimately paid?</p> <p>3 MR. AHERN: Object to the form.</p> <p>4 A It was a, referred to Urner Barry like a 5 line on the Urner Barry website, like liquid whole 6 eggs, in portable containers, maybe plus 5 cents plus 7 freight, and then, you know, that was the same all the 8 time. And then that Urner Barry piece would change.</p> <p>9 Q Speaking to the non-Urner Barry components 10 of that type of a pricing formula, was Heinz able to 11 negotiate what those additions would be?</p> <p>12 A So the, not the Urner Barry piece, but the 13 other piece?</p> <p>14 Q Yes.</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 A I would say sometimes. Other times they 17 may not move and they want to negotiate it, but they 18 would leave it the way it is. But some suppliers were 19 willing to work with us on that.</p> <p>20 Q Talked a little bit earlier about fixed 21 price contracts that -- I think the term was locking 22 the price for a set period of time.</p> <p>23 A Uh-huh.</p> <p>24 Q Between 1999 and 2008 did Heinz ever enter 25 into a fixed price contract of approximately 3 to 6</p>	<p style="text-align: right;">120</p> <p>1 document, is this an e-mail that you received from 2 Chris Blodgett in January 2008?</p> <p>3 A Yep.</p> <p>4 Q Who is Chris Blodgett?</p> <p>5 A Chris Blodgett was the contract 6 administrator for eggs at the time.</p> <p>7 Q What does a contract administrator do?</p> <p>8 A So he would have been the one that actually 9 was receiving like the pricing updates from the 10 suppliers every week or every month and changing them 11 in our system so that the invoices would be 12 accurately, you know, paid. Because it has to match, 13 the price has to match, what we're invoiced and what's 14 in our system has to match.</p> <p>15 Q So his e-mail says "Attached is the updated 16 pricing information for Rose Acre Farms." Do you see 17 that?</p> <p>18 A Uh-huh.</p> <p>19 Q And Rose Acre is one of the companies from 20 which Heinz purchased egg products?</p> <p>21 A Right, yes.</p> <p>22 Q If you turn to the attachment, it says Rose 23 Acre Farms at the top and then to the right it says 24 22/01 and 60/0Z.</p> <p>25 A Uh-huh.</p>
<p style="text-align: right;">119</p> <p>1 months in duration for egg products?</p> <p>2 A Yeah, we did.</p> <p>3 Q Did Heinz ever enter into a fixed price 4 contract for up to a year in duration?</p> <p>5 A During that time, no.</p> <p>6 Q Since 2008, has Heinz entered into any 7 fixed price contracts that have been up to a year in 8 duration?</p> <p>9 A Yes.</p> <p>10 Q Could you give me any examples?</p> <p>11 A Well, I do know that, like currently, just 12 in the last year, the egg buyer had done a bid and, 13 you know, locked up the business for a certain period 14 of time. But I don't know the details of who that was 15 with or anything.</p> <p>16 (THEREUPON, Deposition Exhibit 6 was marked 17 for identification.)</p> <p>18 Q You have been handed what has been marked 19 as Exhibit 6, which for the record is an e-mail and 20 attachment beginning with the bates number Heinz 21 00010559.</p> <p>22 The attachment is a printout of the tab on 23 the excel spread sheet entitled sheet 1.</p> <p>24 A Uh-huh.</p> <p>25 Q So turning to the first page of the</p>	<p style="text-align: right;">121</p> <p>1 Q Do you know what those figures refer to?</p> <p>2 A I don't know for sure. I mean 22 was Mason 3 and I know that Rose Acre supplied to them. But, and 4 then 60 was Chatsworth, but I don't know like /01 and 5 0Z meant. That could be the warehouse location. I'm 6 not sure.</p> <p>7 Q So if you just look at the first, where 8 it's green, says "item contract price," "volume" and 9 "spend" --</p> <p>10 A Uh-huh.</p> <p>11 Q -- the first entry says "November" and 12 under spend says \$122,478 and change?</p> <p>13 A Uh-huh.</p> <p>14 Q In the right, under yellow, it says "market 15 price," "volume" and "spend;" correct?</p> <p>16 A Uh-huh.</p> <p>17 Q And under "spend" it says \$150,793 and 18 change.</p> <p>19 A Uh-huh.</p> <p>20 Q And then on the far right, under red, it 21 says "difference." And then it shows a difference of 22 \$28,314.86 --</p> <p>23 A Uh-huh.</p> <p>24 Q -- for that row?</p> <p>25 A Uh-huh.</p>

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<p style="text-align: right;">122</p> <p>1 Q So is this document that Mr. Blodgett sent</p> <p>2 you in January of 2008, does this set forth the</p> <p>3 savings relative to the market price that Heinz</p> <p>4 realized from its contract with Rose Acre Farms at</p> <p>5 this time?</p> <p>6 MR. AHERN: Object to the form.</p> <p>7 A I would say that, what you're asking is,</p> <p>8 yes, we contracted at this price, he was tracking what</p> <p>9 the actual market price was and then the difference</p> <p>10 between that.</p> <p>11 Q So Heinz paid less than the market price</p> <p>12 for that product at that period in time; correct?</p> <p>13 A Right.</p> <p>14 Q And about \$28,000, \$28,314 and change less;</p> <p>15 correct?</p> <p>16 A Right, yes.</p> <p>17 Q Do you know whether, I understand it's been</p> <p>18 a few years, do you know whether this Rose Acre</p> <p>19 contract being described in this contract was a fixed</p> <p>20 price contract?</p> <p>21 MR. AHERN: Object to the form.</p> <p>22 A It would have had to have been a fixed</p> <p>23 price because otherwise it wouldn't make any sense.</p> <p>24 Q If you go to the first page of the e-mail,</p> <p>25 you look at the subject line?</p>	<p style="text-align: right;">124</p> <p>1 (THEREUPON, Deposition Exhibit 7 was marked</p> <p>2 for identification.)</p> <p>3 Q You have been handed what's been marked as</p> <p>4 Exhibit 7, which for the record is an e-mail with the</p> <p>5 bates number Heinz 00013386 and an attachment with</p> <p>6 1387.</p> <p>7 The attachment is a printout of the tab</p> <p>8 entitled "IMFO" spread sheet that was attached to this</p> <p>9 e-mail.</p> <p>10 A Uh-huh.</p> <p>11 Q Just looking at the first page of the</p> <p>12 Exhibit, is this an e-mail from you to Mauricio Sirgo</p> <p>13 in May of 2008?</p> <p>14 A Yep, yes.</p> <p>15 Q And then you saw "Mauricio, attached a</p> <p>16 summary of cost avoidance realized by locking in on</p> <p>17 egg pricing back in late October"?</p> <p>18 A Uh-huh.</p> <p>19 Q When you say "locking in on egg pricing</p> <p>20 back in late October," are you referring entering into</p> <p>21 fixed price contracts?</p> <p>22 MR. AHERN: Object to the form.</p> <p>23 Q You know what, let me ask it a better way.</p> <p>24 What are you referring to with that statement?</p> <p>25 A The cost avoidance piece confuses me a</p>
<p style="text-align: right;">123</p> <p>1 A Uh-huh.</p> <p>2 Q Says "Rose Acre Farms (Heinz fixed</p> <p>3 versus)." Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Does that confirm your understanding that</p> <p>6 the Rose Acre contract was a fixed price contract?</p> <p>7 MR. AHERN: Object to the form.</p> <p>8 A That would make sense to me.</p> <p>9 Q And I also note that on the attachment, if</p> <p>10 I could direct your attention to the first segment at</p> <p>11 the top, under green, where it says "contract price."</p> <p>12 A Uh-huh.</p> <p>13 Q Then it says 93 cents for each of those six</p> <p>14 entries?</p> <p>15 A Yep.</p> <p>16 Q November through April.</p> <p>17 A Uh-huh.</p> <p>18 Q Does that indicate that Rose Acres was</p> <p>19 charging 93 cents for that product in each of those</p> <p>20 six months?</p> <p>21 A That's what it looks like to me, yes.</p> <p>22 Q And that's consistent with the existence of</p> <p>23 a fixed price contract?</p> <p>24 A Right.</p> <p>25 Q You can set that document aside.</p>	<p style="text-align: right;">125</p> <p>1 little bit.</p> <p>2 But so I would say, yeah, we avoided --</p> <p>3 that doesn't make sense. So that would mean if we</p> <p>4 would have been riding the market, we would have, you</p> <p>5 know, also -- I believe we would have had to have paid</p> <p>6 that 700,000 at the, you know, if we would have</p> <p>7 continued to ride the market. So by fixing the price</p> <p>8 as we did, we avoided that 700,000.</p> <p>9 Q So just to be clear, what you're referring</p> <p>10 to here is a circumstance in which Heinz entered into</p> <p>11 a fixed price contract; is that correct?</p> <p>12 MR. AHERN: Object to the form.</p> <p>13 A I would say yes.</p> <p>14 Q And as a result of entering into that fixed</p> <p>15 price contract, Heinz saved approximately 700,000?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A That's what it looks like to me. This</p> <p>18 looks we avoided by not riding the market.</p> <p>19 Q Turn to the --</p> <p>20 MR. SCHWINGLER: Let me ask what's the</p> <p>21 basis for the objection? In case I have an</p> <p>22 opportunity to cure.</p> <p>23 MR. AHERN: Sure, you haven't defined fixed</p> <p>24 price contract, I don't believe. And you haven't</p> <p>25 asked her what the basis for the price was.</p>

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<p style="text-align: right;">126</p> <p>1 Q When I asked you earlier about, you've used</p> <p>2 the phrase "locking a price."</p> <p>3 A Uh-huh.</p> <p>4 Q Tell me what that means specifically. When</p> <p>5 you lock in a price with a supplier for a set amount</p> <p>6 of time.</p> <p>7 A That means that we've agreed to not ride</p> <p>8 the market and agree to just one price for whatever</p> <p>9 time period.</p> <p>10 Q So for that time period, you will pay the</p> <p>11 same exact price for that given product?</p> <p>12 A Yes, if that's what the agreement was, yep.</p> <p>13 Q So no matter what happens with the market</p> <p>14 price, your price stays the same during that time</p> <p>15 period?</p> <p>16 A Right.</p> <p>17 Q That type of arrangement is what I'm</p> <p>18 referring to by as fixed price contract.</p> <p>19 A Okay.</p> <p>20 Q Do you understand?</p> <p>21 A Yeah.</p> <p>22 Q And if you have any confusion about that</p> <p>23 term, I'm happy to provide more clarification, but I'm</p> <p>24 referring to when Heinz locks in a certain price for a</p> <p>25 set period of months.</p>	<p style="text-align: right;">128</p> <p>1 price.</p> <p>2 Q Okay. You can set that document aside.</p> <p>3 (THEREUPON, Deposition Exhibit 8 was marked</p> <p>4 for identification.)</p> <p>5 Q You have been handed what's been marked as</p> <p>6 Exhibit 8, which is an e-mail bearing the bates number</p> <p>7 Heinz 00024975.</p> <p>8 Take a moment to review this document. Let</p> <p>9 me know once you've done so, please.</p> <p>10 A Okay.</p> <p>11 Q So first of all, the top e-mail on this</p> <p>12 document is that an e-mail from you to Mauricio Sirgo</p> <p>13 forwarding the e-mail below?</p> <p>14 A Uh-huh.</p> <p>15 Q And this is in October of 2007; correct?</p> <p>16 A Uh-huh.</p> <p>17 Q And you say to Mr. Sirgo "insights from</p> <p>18 Informa, I'm locking in price."</p> <p>19 A Uh-huh.</p> <p>20 Q So earlier, you described what Informa is.</p> <p>21 But just to briefly, remind me what exactly Informa</p> <p>22 is.</p> <p>23 A Informa is a business that kind of, they</p> <p>24 have economic experts and different commodities and</p> <p>25 they sell their kind of industry insights, so like</p>
<p style="text-align: right;">127</p> <p>1 A Okay.</p> <p>2 Q Okay. And so what I'm asking you is this</p> <p>3 e-mail --</p> <p>4 A Uh-huh.</p> <p>5 Q -- and the attachment to it --</p> <p>6 A Uh-huh.</p> <p>7 Q -- is it correct that this is summarizing</p> <p>8 the cost savings that Heinz realized by entering into</p> <p>9 fixed price contracts with certain suppliers in</p> <p>10 October of 2007?</p> <p>11 MR. AHERN: Object to the form.</p> <p>12 A I would say it's not really -- at least how</p> <p>13 we categorize it, it wouldn't necessarily be a</p> <p>14 savings. It's a cost avoidance. We avoided paying</p> <p>15 that money. We didn't really save it.</p> <p>16 I mean, like, saving it is -- I don't know,</p> <p>17 we just categorize it differently. I'm sorry if it's</p> <p>18 getting in the way. That's why I wrote it's an</p> <p>19 avoidance. By locking it we avoided paying that extra</p> <p>20 700,000 we would have realized if we rode the market.</p> <p>21 Q Okay. I note on the attachment there is a</p> <p>22 column that says "firm price."</p> <p>23 A Uh-huh.</p> <p>24 Q What do you mean by firm price?</p> <p>25 A I would have taken that to mean the locked</p>	<p style="text-align: right;">129</p> <p>1 Heinz subscribes to Informa for their market insights.</p> <p>2 Q As a subscriber, did Heinz receive</p> <p>3 periodical reports?</p> <p>4 A Yes.</p> <p>5 Q I see here this is an e-mail from Mark W.</p> <p>6 Jordan.</p> <p>7 A Uh-huh.</p> <p>8 Q Livestock and meat analysis for Informa</p> <p>9 economics?</p> <p>10 A Uh-huh.</p> <p>11 Q Was Mr. Jordan an analyst with Informa?</p> <p>12 A Yes.</p> <p>13 Q Did you interact -- how often did you</p> <p>14 interact with Mr. Jordan?</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 A I mean just kind of as needed really. You</p> <p>17 know, they would send out those regular reports,</p> <p>18 monthly, I believe, and then if I had a question, like</p> <p>19 maybe before, like I guess I was thinking, maybe see</p> <p>20 what he has to say before I would make any moves on</p> <p>21 locking in a price or anything like that.</p> <p>22 Q So in addition to receiving periodical</p> <p>23 reports from Informa, you would actually reach out to</p> <p>24 Informa to solicit information; is that fair?</p> <p>25 A You know, we could ask him anything we</p>

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<p style="text-align: right;">130</p> <p>1 wanted to.</p> <p>2 Q And just in the middle of the second full</p> <p>3 paragraph of his e-mail --</p> <p>4 A Uh-huh.</p> <p>5 Q -- do you see where it starts with "as for</p> <p>6 locking in prices"?</p> <p>7 A Yes.</p> <p>8 Q "As for locking in prices, I would not lock</p> <p>9 in a price on egg products any further out than</p> <p>10 December." Do you see that?</p> <p>11 A Yes.</p> <p>12 Q And then you forward this e-mail on to</p> <p>13 Mr. Sirgo saying "insights from Informa on locking in</p> <p>14 price" --</p> <p>15 A Uh-huh.</p> <p>16 Q -- so my question is were you seeking</p> <p>17 information from this Informa analyst about when it</p> <p>18 would be advisable for Heinz to lock in egg product</p> <p>19 prices?</p> <p>20 A Yeah, I mean we always ask that question so</p> <p>21 that we're, know what other people are doing, just to</p> <p>22 get another opinion on, you know, is it a good time,</p> <p>23 should we wait, should we do it now.</p> <p>24 Q And what would make something a good time</p> <p>25 to lock in egg prices?</p>	<p style="text-align: right;">132</p> <p>1 A Yes.</p> <p>2 Q And Greg Hinton, is also a Rose Acres</p> <p>3 employee; correct?</p> <p>4 A Yes.</p> <p>5 Q So you say "Aaron, Greg, can you comment if</p> <p>6 Rose Acre can honor the fixed pricing quotes to lock</p> <p>7 pricing through the end of April? Please let me</p> <p>8 know."</p> <p>9 A Uh-huh.</p> <p>10 Q So this is October 16th. Am I correct that</p> <p>11 you are asking Rose Acres if they will honor a fixed</p> <p>12 pricing quote through the end of the following April;</p> <p>13 is that correct?</p> <p>14 A Right.</p> <p>15 Q Which would be approximately a six month</p> <p>16 contract?</p> <p>17 A Right, yes.</p> <p>18 Q And their response in the next e-mail that</p> <p>19 begins at the bottom of the next page from Mr. Hinton,</p> <p>20 "Michelle, yes, we will honor the prices until April</p> <p>21 30th, 2008 as quoted in the e-mail from September</p> <p>22 12th." Do you see that?</p> <p>23 A Yep. Yes.</p> <p>24 Q Just generally speaking, did you typically</p> <p>25 negotiate fixed price contracts by e-mail?</p>
<p style="text-align: right;">131</p> <p>1 A It would be a good time if you think it's</p> <p>2 going to get worse, the price will go higher I should</p> <p>3 say.</p> <p>4 Q So you try to lock in prices when they are</p> <p>5 low?</p> <p>6 A Yes. Not when you think they are going to</p> <p>7 get lower.</p> <p>8 Q You can set that aside.</p> <p>9 (THEREUPON, Deposition Exhibit 9 was marked</p> <p>10 for identification.)</p> <p>11 Q You have been handed what's been marked as</p> <p>12 Exhibit 9, which is an e-mail string with the bates</p> <p>13 range Heinz 00010177 through 181.</p> <p>14 Now, you are always free to read as much as</p> <p>15 you need to, but I can point you specifically to what</p> <p>16 I'm looking for. If you turn to the page 10179.</p> <p>17 About the e-mail beginning with original message, says</p> <p>18 from Michelle Kamzalow to Aaron Heironimus dated</p> <p>19 October 16th, 2007. Do you see that?</p> <p>20 A Yes.</p> <p>21 Q The subject says "RE: Fixed pricing." Do</p> <p>22 you see that?</p> <p>23 A Yes.</p> <p>24 Q And first of all, Aaron Heironimus, is that</p> <p>25 a Rose Acre employees?</p>	<p style="text-align: right;">133</p> <p>1 A Yes.</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 Q And when I say fixed price contract, I mean</p> <p>4 as I defined earlier.</p> <p>5 MR. AHERN: Same objection.</p> <p>6 A Yes.</p> <p>7 MR. SCHWINGLER: What's the basis for the</p> <p>8 objection?</p> <p>9 MR. AHERN: You are saying typically</p> <p>10 negotiate fixed price contracts. I think the</p> <p>11 only one that has specifically been referred to</p> <p>12 here is the Rose Acre and maybe a situation with</p> <p>13 Michael Foods at the end of 2007 going into 200.</p> <p>14 Q Sure. You've testified several times today</p> <p>15 that at various points in time between 1999 and 2008</p> <p>16 and from 2008 to present, that Heinz has locked in its</p> <p>17 egg product prices for set periods of time; correct?</p> <p>18 MR. AHERN: Objection. Mischaracterizes</p> <p>19 her testimony. I think you asked her from 1999</p> <p>20 through 2008 did Heinz do that, but you haven't</p> <p>21 narrowed the time frame any further than 1999 to</p> <p>22 2008.</p> <p>23 Q Here's my question. Has Heinz entered into</p> <p>24 more than one fixed price contract for egg products</p> <p>25 since 1999?</p>

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<p style="text-align: right;">134</p> <p>1 MR. AHERN: Object to the form.</p> <p>2 A Yes.</p> <p>3 Q Between 1999 and 2008 did Heinz enter into</p> <p>4 more than one fixed price contract for egg products?</p> <p>5 MR. AHERN: Same objection.</p> <p>6 A Yes.</p> <p>7 Q Okay. And since 2008 has Heinz entered</p> <p>8 into more than one fixed price contract for egg</p> <p>9 products?</p> <p>10 MR. AHERN: Object to the form.</p> <p>11 A I know of at least one, I could say.</p> <p>12 Q Okay. But it's fair to say that this</p> <p>13 transaction that's referenced in this Exhibit is not</p> <p>14 the only instance between 1999 and today in which</p> <p>15 Heinz and an egg product supplier agreed on a fixed</p> <p>16 price for a period of several months?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A I would agree that there is at least</p> <p>19 another one, yes. Is that what you're asking me?</p> <p>20 Q Yes.</p> <p>21 A Okay. Yes.</p> <p>22 Q Focusing on the time period from 1999 to</p> <p>23 2008, if you know, in general, generally speaking,</p> <p>24 approximately how many fixed price contracts did Heinz</p> <p>25 enter into for egg products?</p>	<p style="text-align: right;">136</p> <p>1 happened next?</p> <p>2 A So we would, I mean, I would have put it</p> <p>3 down, you know, on paper.</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 A But I think that also it wasn't</p> <p>6 necessarily -- like the one I'm thinking of is you</p> <p>7 know Siegel Egg, but we did like a cap with them. We</p> <p>8 didn't do a fixed price. But also we would have put</p> <p>9 that cap down in writing somewhere and had agreed to</p> <p>10 it.</p> <p>11 But I know Siegel Egg was just more of just</p> <p>12 a talker more than -- he was not an e-mail person, put</p> <p>13 it that way.</p> <p>14 Q When you were the egg buyer for Heinz, did</p> <p>15 you buy any egg products when you perceived prices to</p> <p>16 be low and then store them for later use?</p> <p>17 A No.</p> <p>18 Q You understand that different egg products</p> <p>19 have different shelf lives; correct?</p> <p>20 A Yes.</p> <p>21 Q And some products have longer shelf lives</p> <p>22 than others?</p> <p>23 A Yes.</p> <p>24 Q And if you were to buy a product with a</p> <p>25 longer shelf life, you could store it for a longer</p>
<p style="text-align: right;">135</p> <p>1 A Well, certainly I'm not aware of anything</p> <p>2 before my time. I know of zero before my time.</p> <p>3 I entered into, you know, a locked fixed</p> <p>4 price agreement with more than one supplier during my</p> <p>5 time from 2007 to 2008.</p> <p>6 Q Okay, so focusing only on your time as the</p> <p>7 egg buyer from 2007 to 2008-- I just want to get a</p> <p>8 general sense of whether you did this stuff by e-mail</p> <p>9 or by phone or some other way.</p> <p>10 So that the question I'm asking you is when</p> <p>11 you had communications with an egg supplier about</p> <p>12 locking in a price, was it typical for you to do so by</p> <p>13 e-mail?</p> <p>14 A With some suppliers. I wouldn't say that</p> <p>15 it was all the time with all of them. On some I have</p> <p>16 only communicated with e-mail, but I know on other</p> <p>17 suppliers it was more over the phone that we kind of</p> <p>18 discussed things and they were more someone that liked</p> <p>19 to talk on the phone than e-mails. So it was the same</p> <p>20 end result.</p> <p>21 Q So because you communicated about this</p> <p>22 transaction by e-mail, you have a written record of</p> <p>23 the terms and the deal. If you had a different, if</p> <p>24 you had communicated by phone and reached an agreement</p> <p>25 on locking in a price for a set period of time, what</p>	<p style="text-align: right;">137</p> <p>1 period of time before using it; correct?</p> <p>2 A Yes.</p> <p>3 Q Did that understanding of, did the shelf</p> <p>4 life of a product ever impact the timing of when Heinz</p> <p>5 would purchase the product?</p> <p>6 MR. AHERN: Object to the form.</p> <p>7 A No.</p> <p>8 Q So Heinz didn't consider -- let me give you</p> <p>9 an example.</p> <p>10 Let's say Heinz believes based on all of</p> <p>11 its research and information, from Informa and other</p> <p>12 sources, that dried egg white prices are going to rise</p> <p>13 significantly in the next 6 to 12 months, and the</p> <p>14 shelf life of a dried egg white product is up to one</p> <p>15 year.</p> <p>16 Would you agree that that information would</p> <p>17 be relevant to when Heinz buys the dried egg whites it</p> <p>18 needs?</p> <p>19 MR. AHERN: Object to the form.</p> <p>20 A No.</p> <p>21 Q So if you believed that dried egg white</p> <p>22 prices would increase and you can store egg whites for</p> <p>23 up to a year, you wouldn't have purchased it in order</p> <p>24 to get the benefit of the lower price?</p> <p>25 A No, I mean I don't have control over when</p>

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<p style="text-align: right;">138</p> <p>1 we make those releases on the POs. I could beg 2 somebody to do it if I thought it would help us, but I 3 wouldn't do it any way, no. 4 Q To your knowledge, has Heinz ever purchased 5 egg products and then stored them for up to six months 6 before using them? 7 MR. AHERN: Object to the form. 8 A It's definitely, it's a possibility. But 9 that would just be -- the plants manage that. I 10 really don't know. But it's possible. 11 Q When you prepared for your deposition today 12 as the corporate representative of Heinz, did you 13 speak with anybody about whether Heinz stores egg 14 products for a period of several months or longer? 15 A I did not, no. 16 Q And you don't have any personal knowledge 17 as to whether Heinz does or does not do that? 18 MR. AHERN: Object, mischaracterizes her 19 testimony. 20 MR. SCHWINGLER: I'm asking her a question. 21 Q Do you have any knowledge whether Heinz 22 stores egg products for a period of several months or 23 longer before using them? 24 A No. 25 MR. AHERN: Still mischaracterizes her</p>	<p style="text-align: right;">140</p> <p>1 the entire document. She will do so during the next 2 break. 3 Ms. Kamzalow, are you familiar with Ed 4 Shick? 5 A I've heard the name before, but that's it. 6 Q Do you know whether Ed Shick is an employee 7 of Heinz? 8 A He was, but not right now, no longer. 9 Q Do you know what his position was when he 10 was with Heinz? 11 A I know he was in procurement. 12 Q Do you know anything more than that? 13 A No. 14 Q Do you know whether he was involved in 15 buying eggs? 16 A I don't know. 17 Q I'm going to ask first based on your 18 experience as the egg buyer in 2007 and 2008 and then 19 I'll ask again in your capacity as the corporate 20 representative for Heinz, but during your time as the 21 egg buyer at Heinz did you ever use an auction to 22 select egg product suppliers? 23 A No. 24 MR. AHERN: Object to the form. 25 Q During your time as the egg buyer for</p>
<p style="text-align: right;">139</p> <p>1 testimony. 2 MR. SCHWINGLER: I'm asking her a question. 3 It's a yes or no question. 4 Q Do you have any knowledge of whether Heinz 5 stores egg products for a period of three months or 6 longer before using them? 7 A I do not. 8 MR. AHERN: Same objection. 9 MR. SCHWINGLER: Let's take a break. 10 VIDEOGRAPHER: This ends tape number 3. We 11 are off the record. The time is 12:16 p.m. 12 (Recess taken.) 13 (THEREUPON, Deposition Exhibit 10 was 14 marked for identification.) 15 VIDEOGRAPHER: This begins tape number 4 of 16 the deposition of Michelle Kamzalow. We are on 17 the record. The time is 1:08 p.m. 18 BY MR. SCHWINGLER: 19 Q Good afternoon, Ms. Kamzalow. Just remind 20 you that you are still under oath. 21 Just a little housekeeping, during the 22 break, we marked Case Management Order No. 10, 23 including the acknowledgment and consent document, as 24 Exhibit 10. The witness signed the acknowledgment and 25 consent as she has not yet had the occasion to review</p>	<p style="text-align: right;">141</p> <p>1 Heinz, did you ever use an auction to determine the 2 prices Heinz will pay for egg products? 3 A No. 4 MR. AHERN: Same objection. 5 Q When you were preparing for your deposition 6 today, did you review any documents referencing 7 auctions for egg products? 8 A No. 9 Q Did you speak with anyone at Heinz about 10 auctions for egg products? 11 A No. 12 Q Do you know whether prior to your time as 13 egg buyer -- let me be more specific. 14 Do you know whether during the period from 15 1999 until you became the egg buyer in 2007, whether 16 Heinz ever used an auction to determine the prices it 17 pays for egg products? 18 A No. 19 (THEREUPON, Deposition Exhibit 11 was 20 marked for identification.) 21 Q Handing you what's been marked as Exhibit 22 11. For the record this is a document that's been 23 designated as "Highly Confidential" by Michael Foods 24 and is subject to the Protective Order contained in 25 Exhibit 10.</p>

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<p style="text-align: right;">142</p> <p>1 The document bears the bates range MFI 2 0258533 running through 258547. 3 Turning your attention to the first page, 4 Ms. Kamzalow, near the top of the page, do you see 5 where it says "Auction 1302-HNA eggs"? 6 A Yes. 7 Q Is the acronym HNA an acronym used within 8 Heinz? 9 A Yes. 10 Q What does it stand for? 11 A Heinz North America. 12 Q This document at least appears to be dated 13 in June of 2003. Did you review this document when 14 preparing for your deposition today? 15 A No. 16 Q I know you had said earlier you reviewed 17 about 20 documents. Did you review any documents that 18 referred to an auction for HNA eggs? 19 A No. 20 Q Have you ever seen, apart from preparing 21 for your deposition today, have you ever seen an 22 auction document that generally is in this format? 23 A No. 24 Q If you turn to the fifth page of the 25 Exhibit, which has the bates number 258357 in the</p>	<p style="text-align: right;">144</p> <p>1 Q Does this refresh your recollection about 2 what Ed Shick's position was within Heinz? 3 A Well, yeah, I mean now it's telling me he 4 was the egg buyer, you know, or that's what it would 5 lead me to believe he was the egg buyer at that time. 6 Q And just directing your attention to the 7 portion of the Exhibit that begins on page 537, which 8 is the page before, starting with the Free Markets 9 logo at the top, and continuing until the end of the 10 document, did you review any document that -- let me 11 ask you this. 12 Did you review this document in preparing 13 for your deposition today? 14 A No. 15 Q Apart from your preparation for today's 16 deposition, do you recall ever reviewing this document? 17 A No. 18 Q On page 539, at the top it says "Request 19 For Quotation." 20 A Uh-huh. 21 Q Did you ever issue -- just from your time 22 period as buyer in 2007 to 2008, did you ever issue a 23 request for quotation to egg suppliers that was in 24 this general format? 25 A No, I've never used a format like this.</p>
<p style="text-align: right;">143</p> <p>1 corner. 2 A Uh-huh. 3 Q Do you see where at the top of the page it 4 says "Free Markets"? 5 A Yes. 6 Q Are you familiar with Free Markets? 7 A Somewhat. 8 Q What is Free Markets? 9 A I believe Free Markets would have been a 10 third party that Heinz used to run an auction. 11 Q So was Free Markets a vendor? 12 A Yeah. 13 Q And in what sense did they assist Heinz in 14 running an auction? 15 A They would provide, you know, the software 16 and support. You know, Heinz probably doesn't -- they 17 probably didn't at the time have the capability to run 18 like a live auction. So they would ask, you know, a 19 company that had that capability to do that and, you 20 know, Heinz would say what they want to do and they 21 would kind of be the host of it. 22 Q If you turn to the next page, in the middle 23 of the page, it says "Ed Shick" and "buyer." Do you 24 see that? 25 A Yeah.</p>	<p style="text-align: right;">145</p> <p>1 Q Okay. If you turn to page 542, under 2 Section 4.1 it says "specification compliance," and 3 then it says "All products supplied to Heinz must be 4 in full compliance with the specifications section 5 contained in this RFQ." 6 A Uh-huh. 7 Q I believe earlier you testified that Heinz 8 has product specifications for the egg products it 9 uses? 10 A Uh-huh. 11 Q Is that correct? 12 A Yes. 13 Q And Heinz requires its egg product 14 suppliers to be in full compliance with those 15 specifications? 16 A Yes. 17 Q And this is a 2003 document, but during 18 your time as egg buyer in 2007 and 2008, was that the 19 case? 20 A Yes. 21 Q And based on your preparation to testify on 22 Heinz's behalf, was that the case from 1999 to 2008 as 23 well? 24 A Yes, I would say that we have always 25 required the suppliers to meet our specifications.</p>

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<p style="text-align: right;">146</p> <p>1 Q And that continues to be the policy to this</p> <p>2 day?</p> <p>3 A Yes.</p> <p>4 Q On page 545, under the Section 5.1 where it</p> <p>5 says "Supplier Qualification."</p> <p>6 A Uh-huh.</p> <p>7 Q It says "Heinz, H. J. Heinz Corporation</p> <p>8 quality assurance requires the awarded suppliers to</p> <p>9 provide quality systems information and host a site</p> <p>10 visit by H. J. Heinz Corporation QA if they have not</p> <p>11 already done so."</p> <p>12 When you were the egg buyer in 2007 and</p> <p>13 2008, did you ever visit a supplier's production</p> <p>14 facilities?</p> <p>15 A Yes.</p> <p>16 Q Ballpark, how many times did you visit a</p> <p>17 supplier's production facility?</p> <p>18 A Just once.</p> <p>19 Q Which supplier was that?</p> <p>20 A It was Taylor Egg, which is one of the</p> <p>21 Siegel Eggs suppliers.</p> <p>22 Q Why did you visit Taylor Egg?</p> <p>23 A I was in the area. That's where, it was</p> <p>24 real close to Alden Merrell and I have, I was meeting</p> <p>25 to go meet with Kathy, Kathy Conti and Taylor Egg was</p>	<p style="text-align: right;">148</p> <p>1 Q Are you aware of any circumstances in which</p> <p>2 product quality has been, in which Heinz has become</p> <p>3 concerned with the quality of an egg product from one</p> <p>4 of its suppliers?</p> <p>5 A No.</p> <p>6 Q If you look at a few sentences later in</p> <p>7 this, on this page it says "production facilities to</p> <p>8 supply Heinz must pass the Heinz Vendor Audit." Do</p> <p>9 you see that?</p> <p>10 A Is it in this first paragraph?</p> <p>11 Q Yes. About the third sentence in.</p> <p>12 A Oh, okay.</p> <p>13 Okay.</p> <p>14 Q I see that "Heinz Vendor Audit" is</p> <p>15 capitalized. Are you familiar with that term?</p> <p>16 A I mean, I don't know why it's capitalized,</p> <p>17 but I know that we do vendor audits. So, yeah, I'm</p> <p>18 familiar with that.</p> <p>19 Q With respect to egg suppliers specifically,</p> <p>20 could you just describe what the vendor audit process</p> <p>21 includes?</p> <p>22 A Well, I really am not an expert in that.</p> <p>23 So we have a vendor quality team that would, you know,</p> <p>24 basically do their own audit of the supplier's</p> <p>25 facility, and I mean it's just, they totally look at</p>
<p style="text-align: right;">147</p> <p>1 close by so we went and visited that as well.</p> <p>2 Q When you were the egg buyer for Heinz in</p> <p>3 2007, 2008, did you understand that Heinz required egg</p> <p>4 suppliers to be available for a site visit?</p> <p>5 A Yes.</p> <p>6 Q And based on your preparation to testify on</p> <p>7 Heinz's behalf, as a corporate witness today, are you</p> <p>8 aware of whether Heinz required site visits between</p> <p>9 1999 and 2007 when you became egg buyer?</p> <p>10 A I would say yes.</p> <p>11 Q Is it fair to say that, is it fair to say</p> <p>12 that product quality is important to Heinz?</p> <p>13 A Yes.</p> <p>14 Q And Heinz markets its own finished products</p> <p>15 as being high quality products; correct?</p> <p>16 A Yes.</p> <p>17 Q And part of producing a high quality</p> <p>18 product is purchasing high quality ingredients;</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q Are you aware of any circumstance in which</p> <p>22 Heinz has disqualified a supplier for quality reasons?</p> <p>23 A Within the egg industry?</p> <p>24 Q Within the egg industry specifically?</p> <p>25 A No.</p>	<p style="text-align: right;">149</p> <p>1 everything. I've never been there with them, but it's</p> <p>2 pretty much a half day to whole day event where they</p> <p>3 look at their whole quality systems, look at all the</p> <p>4 programs they have in place, to meet certain quality</p> <p>5 standards, want to share different records and any</p> <p>6 kind of -- basically just want to understand their</p> <p>7 quality plan. So that's from a high level what I</p> <p>8 understand.</p> <p>9 Q Set that document aside.</p> <p>10 (THEREUPON, Deposition Exhibit 12 was</p> <p>11 marked for identification.)</p> <p>12 Q You have been handed what's been marked as</p> <p>13 Exhibit 12, which for the record is an e-mail bates</p> <p>14 number Heinz 00012539, with the attachment is an excel</p> <p>15 spread sheet. The excel spread sheet had a number of</p> <p>16 tabs or worksheets.</p> <p>17 We identified 18 of those that actually had</p> <p>18 data on them. And they were entitled JAN, FEB, MAR,</p> <p>19 abbreviations for various months all the way through</p> <p>20 September.</p> <p>21 And then Futures Jan, Futures Feb, Futures</p> <p>22 Mar, Futures April, Futures May, Futures June, Futures</p> <p>23 July, Futures August and Futures September.</p> <p>24 So those are all printed out and reproduced</p> <p>25 in Exhibit 12.</p>

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<p style="text-align: right;">150</p> <p>1 So first of all, on the first page of the 2 Exhibit, is this an e-mail from Jeff Cutler to you in 3 September of 2008? 4 A Yes. 5 Q Who is Jeff Cutler? 6 A Jeff Cutler was my sales representative 7 that I talked to. That worked for Golden Oval. 8 Q The subject of the e-mail is "grain based 9 model"; is that correct? 10 A Uh-huh. 11 Q The e-mail says "Michelle, please see the 12 attached grain-based model that we spoke of last week 13 for the Massillon location." Do you see that? 14 A Uh-huh. 15 Q Do you recall speaking with Jeff Cutler in 16 September 2008 about grain-based egg product pricing? 17 A Yes. 18 Q And remind me again, what's produced at the 19 Massillon location? 20 A That's where they made the Nancy's quiches, 21 Smart Ones. 22 Q What egg products specifically was used to 23 make those quiches? 24 A Liquid whole eggs. 25 Q All right. So if you want to turn to the</p>	<p style="text-align: right;">152</p> <p>1 Q So it's the bottom line; is that fair to 2 say? 3 A It's the total price, yeah, everything that 4 would go into it. 5 Q And if you turn in a number of pages, there 6 is a page at the bottom left that says "Tab_Futures 7 Jan." 8 A Jan. 9 Q Yeah, J-a-n? 10 A Okay. Yep. 11 Q Do you recall what information was being 12 provided to you on this page? 13 MR. AHERN: Object to the form. 14 A I would say, you know, just looking at 15 this, I'm not clear, but being that on the other pages 16 they were talking about grains, I would guess that was 17 grains. 18 Q I know it's been a few years, but you said 19 you spoke with Jeff Cutler from Golden Oval in 20 September of 2008 about grain-based pricing. 21 A (Witness nodded.) 22 Q Do you recall whether Mr. Cutler made any 23 representations about the advantages of grain-based 24 pricing? 25 A He never really said -- I shouldn't say</p>
<p style="text-align: right;">151</p> <p>1 first page of the attachment, which is from the tab 2 entitled "Jan." 3 A Okay. 4 Q And you see the term at the bottom that 5 says "delivered cost," that's in bold? 6 A Uh-huh. 7 Q What is delivered cost? 8 A Delivered cost -- 9 MR. AHERN: Object to the form. 10 A I just want to make sure I understand the 11 term, the whole thing first. 12 So I would assume that is what, you know, 13 he's saying, he was kind of breaking down all the 14 prices, or all the, what they are saying goes into a 15 grain-based model. And then so what price would be 16 proposed to Heinz if those were the import costs. 17 Q So, all right. When you were the egg buyer 18 for Heinz, did you ever use the term delivered cost? 19 A Yeah. 20 Q And what did you understand the term 21 delivered cost to mean? 22 A For me the delivered cost means so the 23 total cost that it would take, the total cost Heinz is 24 going to pay by the time that finished product gets to 25 our factory.</p>	<p style="text-align: right;">153</p> <p>1 never said it. It was a way that we could have more 2 stable pricing, would be, you know, so you weren't 3 riding the market necessarily. 4 But I wouldn't say that he ever said it was 5 necessarily advantage. He was just trying to say it 6 is what it is. If you like it, let's talk about it. 7 If you don't like it, that's fine, too. 8 Q I believe you testified earlier that there 9 was no futures market for eggs? 10 A Uh-huh. 11 Q Did Mr. Cutler discuss with you the ability 12 to hedge grain prices? 13 MR. AHERN: Object to the form. 14 A I don't know if we got into that kind of 15 detail about it. 16 Q Do you understand what I mean by hedge 17 grain prices? 18 A I think so. 19 Q Just to be clear, what I'm referring to is 20 the ability, by using either grain futures or options 21 to protect yourself against future changes in grain 22 price. Do you understand what I mean by that? 23 A Yes. 24 Q And did you say you don't recall 25 specifically discussing that topic with Mr. Cutler?</p>

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<p style="text-align: right;">154</p> <p>1 A I feel like we never got that deep into it.</p> <p>2 I think that we would always strive for the three year</p> <p>3 commitment on something. But we understood that,</p> <p>4 grain does have a futures, that you can somewhat have</p> <p>5 a say into, versus like eggs that you don't have any</p> <p>6 say in it. It just comes out on the Urner Barry and</p> <p>7 it is what it is.</p> <p>8 So that concept, you know, was understood.</p> <p>9 But I think that --</p> <p>10 MR. AHERN: I think the question was do you</p> <p>11 recall, specifically recall discussing the topic</p> <p>12 with Mr. Cutler?</p> <p>13 A Of what? Of the grains have a futures</p> <p>14 market?</p> <p>15 Q Yeah.</p> <p>16 A Um, I mean I just don't know if I got that</p> <p>17 from him. But yeah, I think we all understood that.</p> <p>18 Q I guess that's a follow-up question then.</p> <p>19 Regardless of what you talked to Mr. Cutler about,</p> <p>20 were you aware at this time that it was possible to</p> <p>21 purchase corn futures?</p> <p>22 A I know it was possible, yes.</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A Uh-huh.</p> <p>25 Q And I believe you testified that Mr. Cutler</p>	<p style="text-align: right;">156</p> <p>1 that are listed as cost components are tied to the</p> <p>2 market price of eggs?</p> <p>3 MR. AHERN: Object to the form.</p> <p>4 A I mean, I personally don't raise any</p> <p>5 chickens or anything, so I mean I don't know for sure</p> <p>6 that would be the case.</p> <p>7 Q I guess what I'm asking is there is no</p> <p>8 Urner Barry quote contained in this formula, is there?</p> <p>9 MR. AHERN: Object to the form.</p> <p>10 A Urner Barry is not listed.</p> <p>11 Q So the Urner Barry market price could go</p> <p>12 through the roof and that wouldn't cause Heinz's price</p> <p>13 under this formula to increase; right?</p> <p>14 MR. AHERN: Object to the form.</p> <p>15 A What you're saying is, it's not part of</p> <p>16 that, so -- I mean I don't know if they are somehow</p> <p>17 interrelated, but according to this it doesn't seem so.</p> <p>18 Q And I think you had said this before, but</p> <p>19 Heinz declined Golden Oval's proposal to enter into a</p> <p>20 grain-based contract; correct?</p> <p>21 A Right, yes.</p> <p>22 Q Set that document aside.</p> <p>23 (THEREUPON, Deposition Exhibit 13 was</p> <p>24 marked for identification.)</p> <p>25 Q Hand you what's been marked as Exhibit 13,</p>
<p style="text-align: right;">155</p> <p>1 indicated that grain-based pricing could result in</p> <p>2 more stable costs for Heinz; is that correct?</p> <p>3 MR. AHERN: Object to the form.</p> <p>4 A I would say it was more like predictable,</p> <p>5 because you knew you could take a futures, like if you</p> <p>6 knew that corn was going to be five dollars and then</p> <p>7 you put that into, you know, what he was saying here,</p> <p>8 then you had an idea what your price was going to be.</p> <p>9 So as long as -- I mean if corn went crazy,</p> <p>10 then I guess it wouldn't exactly be stable either.</p> <p>11 But if you are able to take a futures position and you</p> <p>12 locked a long term, so it could be more stable. So</p> <p>13 all those factors would have to be included in that</p> <p>14 statement.</p> <p>15 Q When you were the buyer, egg buyer for</p> <p>16 Heinz in 2007 and 2008, did you understand that -- let</p> <p>17 me withdraw that.</p> <p>18 Just turning back to that first, the second</p> <p>19 page of the Exhibit, the first page of the attachment?</p> <p>20 A Uh-huh.</p> <p>21 Q Says "Tab_Jan." And we're looking at the</p> <p>22 different items that are listed, corn per bushel, soy</p> <p>23 bean meal, et cetera?</p> <p>24 A Uh-huh.</p> <p>25 Q Would you agree that none of these items</p>	<p style="text-align: right;">157</p> <p>1 which for the record is an e-mail with the bates</p> <p>2 number Heinz 00010241 and the attached document Heinz</p> <p>3 00010242.</p> <p>4 First looking just at the e-mail, 10241, is</p> <p>5 this an e-mail from John Brommer to you in September</p> <p>6 2007?</p> <p>7 A Yes.</p> <p>8 Q Who is John Brommer?</p> <p>9 A John Brommer was my sales contact at</p> <p>10 Michael Foods.</p> <p>11 Q And if you could turn to the attachment, in</p> <p>12 the attachment if you could turn specifically to the</p> <p>13 page ending in 10246.</p> <p>14 Now, just to be clear, this attachment it</p> <p>15 has the Michael Foods logo on it; correct?</p> <p>16 A Yes.</p> <p>17 Q And this was a document that Mr. Brommer</p> <p>18 sent to you in September of 2007; correct?</p> <p>19 A Yes.</p> <p>20 Q And on the page ending in 10246, it says</p> <p>21 "current trends" on the top; right?</p> <p>22 A Right.</p> <p>23 Q And the first bullet under that says</p> <p>24 "movement to pricing based on grain markets." Do you</p> <p>25 see that?</p>

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<p style="text-align: right;">158</p> <p>1 A Uh-huh.</p> <p>2 Q And then first bullet point says "less</p> <p>3 fluctuation," second bullet point says "opportunity</p> <p>4 for either/both parties to hedge" and the third bullet</p> <p>5 point said "longer term relationships."</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q So would you agree with me that in</p> <p>9 September 2007 Mr. Brommer sent you a document</p> <p>10 representing that there was a current trend and a</p> <p>11 movement to pricing based on grain markets?</p> <p>12 MR. AHERN: Object to the form.</p> <p>13 A Looks like it, yeah.</p> <p>14 Q Did you speak with Mr. Brommer about this</p> <p>15 document?</p> <p>16 A I honestly -- I mean in this e-mail it says</p> <p>17 that he referenced this, or he was going to send this</p> <p>18 to me. I don't know if we talked about any components</p> <p>19 of it. It's hard to remember that.</p> <p>20 Q See the second bullet that says "movement</p> <p>21 to pricing using break-in stock or liquid tanker</p> <p>22 markets as baseline"?</p> <p>23 A Uh-huh.</p> <p>24 Q Do you understand what Mr. Brommer is</p> <p>25 referring to when he talks about pricing using</p>	<p style="text-align: right;">160</p> <p>1 Q So is it fair to say the answer to my</p> <p>2 question is no?</p> <p>3 A No --</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 A -- I can't really answer that.</p> <p>6 Q You can set aside.</p> <p>7 Do you recall meeting with Michael Foods</p> <p>8 representatives in the summer of 2007 to discuss</p> <p>9 grain-based pricing?</p> <p>10 A No.</p> <p>11 Q Are you aware of whether other Heinz</p> <p>12 employees met with Michael Foods representatives in</p> <p>13 the summer of 2007 to discuss grain-based pricing?</p> <p>14 A No.</p> <p>15 Q What is Heinz's relationship to Jack in the</p> <p>16 Box?</p> <p>17 A Jack in the Box is a customer of Heinz.</p> <p>18 Q Heinz doesn't own Jack in the Box?</p> <p>19 A No.</p> <p>20 Q What does Heinz sell to Jack in the Box?</p> <p>21 A They sell them like portion packed</p> <p>22 condiments.</p> <p>23 Q Does Heinz sell -- are portion packed</p> <p>24 condiments the only products that Heinz sells to Jack</p> <p>25 in the Box?</p>
<p style="text-align: right;">159</p> <p>1 breaking stock as the baseline?</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 A I mean trying to remember, but that makes</p> <p>4 me think that perhaps there was on the Urner Barry a</p> <p>5 breaking stock listed because it would still have to</p> <p>6 be some kind of reported, you know, values at some</p> <p>7 point. I am not familiar.</p> <p>8 MR. AHERN: The question is do you know</p> <p>9 what he meant by this line?</p> <p>10 A Um --</p> <p>11 MR. AHERN: Other than what he says, do you</p> <p>12 know what he meant by it?</p> <p>13 A I mean just it is what it is there. I</p> <p>14 mean, UEP not sure.</p> <p>15 Q The last bullet on the page where it says</p> <p>16 "increased volume of inline liquid"?</p> <p>17 A Uh-huh.</p> <p>18 Q Are you familiar with the term "inline</p> <p>19 liquid eggs"?</p> <p>20 A No.</p> <p>21 Q Do you know whether Heinz -- do you know</p> <p>22 during the period 2007, 2008 when you were the egg</p> <p>23 buyer for Heinz, whether Heinz purchased egg products</p> <p>24 manufactured from inline liquid eggs?</p> <p>25 A I don't really know what that means.</p>	<p style="text-align: right;">161</p> <p>1 A Yes.</p> <p>2 Q Just to close the loop on Jack in the Box,</p> <p>3 did Heinz sell Jack in the Box any like omelette</p> <p>4 patties or pre-cooked eggs?</p> <p>5 A No.</p> <p>6 (THEREUPON, Deposition Exhibit 14 was</p> <p>7 marked for identification.)</p> <p>8 Q Hand you what's been marked as Exhibit 14,</p> <p>9 which is an e-mail with the bates number Heinz</p> <p>10 00010261, carrying over to 262.</p> <p>11 Is this an e-mail from Mr. Brommer of</p> <p>12 Michael Foods to you in June of 2007?</p> <p>13 A Yes.</p> <p>14 Q And it responds to an e-mail from you to</p> <p>15 Mr. Brommer of June 18th, 2007; is that correct?</p> <p>16 A These are both from John. Did I send</p> <p>17 him --</p> <p>18 Q Actually let me withdraw that question.</p> <p>19 So the top e-mail, the very top of the</p> <p>20 first page, Mr. Brommer says "Thanks for the e-mail,</p> <p>21 Michelle, I appreciate your help. I would also like</p> <p>22 to talk to you about grain-based yield pricing."</p> <p>23 A Uh-huh.</p> <p>24 Q Do you recall whether you spoke with</p> <p>25 Mr. Brommer about grain-based yield pricing in June of</p>

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<p style="text-align: right;">162</p> <p>1 2007?</p> <p>2 A No.</p> <p>3 Q The next sentence says "We have a customer</p> <p>4 who is looking at buying egg whites based on grain</p> <p>5 that would generate an excess of 8 million pounds of</p> <p>6 yolk." Do you see that?</p> <p>7 A Uh-huh.</p> <p>8 Q "I think it is something your company</p> <p>9 should investigate." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Did you, as the egg buyer for Heinz, after</p> <p>12 receiving this e-mail from Mr. Brommer in June 2007,</p> <p>13 look into the possibility of buying egg yolks using a</p> <p>14 grain-based price?</p> <p>15 MR. AHERN: You mean egg whites?</p> <p>16 MR. SCHWINGLER: No, egg yolks.</p> <p>17 A I mean, I would say that I don't remember</p> <p>18 anything specifically about it. But you know, looking</p> <p>19 at this e-mail, I would think that I would have</p> <p>20 mentioned it to my boss at the time. But that's just</p> <p>21 me. I was very new to this job, I only started in</p> <p>22 May. So I may have not had any idea what he was</p> <p>23 talking about, so, to be honest.</p> <p>24 Q And you don't recall whether you actually</p> <p>25 looked into the --</p>	<p style="text-align: right;">164</p> <p>1 are looking up the same place that I'm getting the</p> <p>2 information, but they would have it, too.</p> <p>3 Q Are you familiar with the publication known</p> <p>4 as Morning Comments?</p> <p>5 A Was that from Informa?</p> <p>6 Q Let's see.</p> <p>7 (THEREUPON, Deposition Exhibit 15 was</p> <p>8 marked for identification.)</p> <p>9 Q Hand you what's been marked as Exhibit 15,</p> <p>10 e-mail with the bates number Heinz 00015096, and the</p> <p>11 attachments beginning on 97 and running through 110.</p> <p>12 A Okay the.</p> <p>13 Q The first page of this document, is this an</p> <p>14 e-mail from Informa to you from November of 2008?</p> <p>15 A Yes.</p> <p>16 Q And it attaches a document called Morning</p> <p>17 Comments; correct?</p> <p>18 A Yes.</p> <p>19 Q Does this refresh your recollection as to</p> <p>20 whether you received a publication known as Morning</p> <p>21 Comments?</p> <p>22 A Yes.</p> <p>23 Q Okay. How often did you receive this</p> <p>24 publication from Informa?</p> <p>25 A I would say it was regular, regularly,</p>
<p style="text-align: right;">163</p> <p>1 A No, the only thing I remember in depth</p> <p>2 talking about, like we just went over the Golden Oval,</p> <p>3 I don't remember doing that with Michael Foods at all.</p> <p>4 Q You can set that aside.</p> <p>5 When you were the egg buyer for Heinz in</p> <p>6 2007 and 2008, did you track the price of egg</p> <p>7 products?</p> <p>8 MR. AHERN: Objection, asked and answered.</p> <p>9 A I guess I don't know exactly what you mean</p> <p>10 by track. I looked at it, but I didn't write it down</p> <p>11 or anything.</p> <p>12 Q As part of your job responsibilities as the</p> <p>13 egg buyer, was it important for you to understand what</p> <p>14 prices were being charged for egg products in the</p> <p>15 market?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A Yes.</p> <p>18 Q And how did you obtain that information?</p> <p>19 A Urner Barry website.</p> <p>20 Q And did you obtain egg pricing information</p> <p>21 from the Informa analyst that we've talked about</p> <p>22 before?</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A They would do their own, you know, reports</p> <p>25 and that type of thing. So it would be, I mean they</p>	<p style="text-align: right;">165</p> <p>1 either -- it was either weekly or daily.</p> <p>2 Q All right. You can set that aside.</p> <p>3 Are you familiar with a publication Egg</p> <p>4 Sector Update?</p> <p>5 A Uh-huh, yes.</p> <p>6 Q What is that?</p> <p>7 A That would be, that came from Informa</p> <p>8 Economics and they would do a monthly, kind of report</p> <p>9 about the, you know, egg economic information, either</p> <p>10 pricing or just like stats about inventories and that</p> <p>11 type of thing and they tried to collect that</p> <p>12 information. I think they also may have included some</p> <p>13 commentary as well.</p> <p>14 Q When you were the egg buyer for Heinz, did</p> <p>15 you receive the Egg Sector Update from Informa?</p> <p>16 A I did, yes.</p> <p>17 Q And you received it approximately on a</p> <p>18 monthly basis; is that correct?</p> <p>19 A Yes, yes.</p> <p>20 Q Are you aware of whether Mr. Sirgo received</p> <p>21 the Egg Sector Update when he was the egg buyer?</p> <p>22 A Yes, he would have.</p> <p>23 Q Do you know when Heinz began receiving the</p> <p>24 Egg Sector Update from Informa?</p> <p>25 A No, I don't know.</p>

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<p style="text-align: right;">166</p> <p>1 Q And do you know whether Heinz has continued</p> <p>2 to receive the Egg Sector Update after your time as</p> <p>3 the egg buyer?</p> <p>4 A Yes, they would have.</p> <p>5 Q Do they continue to receive the update to</p> <p>6 this day?</p> <p>7 MR. AHERN: Do you know?</p> <p>8 A I don't know.</p> <p>9 Q Are you familiar with the publication known</p> <p>10 as Weekly Wire?</p> <p>11 A Yes.</p> <p>12 Q What is Weekly Wire?</p> <p>13 A So that would be a weekly update on, you</p> <p>14 know, a handful of commodities that Informa publishes</p> <p>15 that as well, kind of in between of the monthly and</p> <p>16 Morning Comments.</p> <p>17 Q So the Egg Sector Update included</p> <p>18 information about egg product markets; correct?</p> <p>19 A Yes.</p> <p>20 Q Did the Weekly Wire also provide</p> <p>21 information about egg product markets?</p> <p>22 A I think it could have. I think what I</p> <p>23 recall is the Weekly Wire had maybe just like five, so</p> <p>24 it might not have included egg products every time.</p> <p>25 But at some points it would.</p>	<p style="text-align: right;">168</p> <p>1 Q If you remember, do you know how frequently</p> <p>2 you would receive egg price information or forecasts</p> <p>3 from Mr. Jordan?</p> <p>4 A I don't remember. I mean it was regular,</p> <p>5 but I don't remember the frequency.</p> <p>6 Q Okay. All right. You can set that aside.</p> <p>7 Are you familiar with Don Bell?</p> <p>8 A Name kind of sounds familiar, but --</p> <p>9 (THEREUPON, Deposition Exhibit 17 was</p> <p>10 marked for identification.)</p> <p>11 Q You have been handed Exhibit 17, which is</p> <p>12 an e-mail with the bates number Heinz 00009883 and the</p> <p>13 attachment 9884.</p> <p>14 Did you receive this e-mail in September of</p> <p>15 2007?</p> <p>16 A Yes.</p> <p>17 Q It says on the "from" line, "right fax</p> <p>18 e-mail Gateway." Was this a document received by fax?</p> <p>19 A Looks like it, yeah. I mean -- yeah, I</p> <p>20 think you could like fax something or come to your</p> <p>21 e-mail.</p> <p>22 Q Turning to the second page to the</p> <p>23 attachment?</p> <p>24 A Uh-huh.</p> <p>25 Q It says "August 31, 2007, date of</p>
<p style="text-align: right;">167</p> <p>1 Q Are you familiar with eggs and egg product</p> <p>2 price forecasts?</p> <p>3 A Um, that sounds kind of vague, but if it</p> <p>4 came from Informa, then yes.</p> <p>5 Q Let me see if I can help with a document.</p> <p>6 These are not trick questions, by the way. I'm just</p> <p>7 trying to speed things along. I'm happy to put a</p> <p>8 document in front of you where it will help.</p> <p>9 (THEREUPON, Deposition Exhibit 16 was</p> <p>10 marked for identification.)</p> <p>11 Q You have been handed what's been marked as</p> <p>12 Exhibit 16, which is an e-mail with the bates number</p> <p>13 Heinz 00009881 and the attachment spread sheet printed</p> <p>14 out all six tabs on the spread sheet that contain</p> <p>15 data.</p> <p>16 I'm happy to read the names of those into</p> <p>17 the record, but it's also apparent on the bottom left</p> <p>18 corner of each page which tab it came from.</p> <p>19 A Okay.</p> <p>20 Q Mark Jordan was an Informa analyst;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q So you received this document from him in</p> <p>24 June of 2007; correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">169</p> <p>1 projection, summary of flock size and egg price</p> <p>2 projections prepared by Don Bell."</p> <p>3 A Uh-huh.</p> <p>4 Q At the top of the page in the banner it</p> <p>5 says "Rose Acre sales." Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you recall receiving this document from</p> <p>8 Rose Acre in 2007?</p> <p>9 A Um, I mean the document looks somewhat</p> <p>10 familiar. But until you pointed this out, I had no</p> <p>11 idea who sent it to me, so.</p> <p>12 Q Did Rose Acre -- to your knowledge, did</p> <p>13 Rose Acre send you Don Bell documents on occasions</p> <p>14 other than this?</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 A No.</p> <p>17 Q Let me see if I can ask it in a better way.</p> <p>18 You would agree that this document, at</p> <p>19 least on its face, appears to be a summary of flock</p> <p>20 size and egg price projections by Don Bell; correct?</p> <p>21 A Yes.</p> <p>22 Q Do you recall receiving any other documents</p> <p>23 prepared by Don Bell when you were the egg buyer for</p> <p>24 Heinz?</p> <p>25 A No, I don't.</p>

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<p style="text-align: right;">170</p> <p>1 Q When you prepared for this deposition 2 today, did you review any documents that were prepared 3 by Don Bell? 4 A No. 5 Q Did you discuss Don Bell with any other 6 Heinz employee in preparing for this deposition? 7 A No. 8 Q And did you discuss Don Bell with anybody 9 other than your attorneys when preparing for this 10 deposition? 11 A He didn't come up at all, no. 12 Q You can set that aside. Are you familiar 13 with NASS and USDA chicken and eggs reports? 14 A No. 15 (THEREUPON, Deposition Exhibit 18 was 16 marked for identification.) 17 Q You have been handed what's been marked as 18 Exhibit 18, which is an e-mail with the bates numbers 19 Heinz 00010498 extending until 10512. I'm just going 20 to ask you a question on the first page. 21 A Uh-huh. 22 Q Who is John Krull? 23 A John Krull was a buyer at Heinz. 24 Q Did he have responsibility over egg 25 products in November of 2007?</p>	<p style="text-align: right;">172</p> <p>1 Q Set that aside. Are you familiar with the 2 Cleveland Research Company? 3 A No. 4 (THEREUPON, Deposition Exhibit 19 was 5 marked for identification.) 6 Q You have been handed what's been marked as 7 Exhibit 19, which for the record is an e-mail string 8 with the bates range Heinz 00015076 to 77 and then the 9 attachment beginning on 15079 and extending until 10 15095. 11 Looking just at the e-mail on the front, 12 top e-mail is from Guy McIntyre to a number of 13 individuals, including you; is that correct? 14 A Yes. 15 Q And this is from October of 2008; correct? 16 A Yes. 17 Q The subject says "FYI Weekly Commentary 18 Cleveland Research." Is that true? 19 A Yes. 20 Q If you flip to the third page, which begins 21 with 15079, at the top on the letterhead it says 22 "Cleveland Research Company." Do you see that? 23 A Yes. 24 Q Do you recall receiving this document from 25 Mr. McIntyre in October 2008?</p>
<p style="text-align: right;">171</p> <p>1 A No. 2 Q This is an e-mail, at least the top of this 3 document, is an e-mail from Mr. Krull to you and 4 Thomas Heeley in November of 2007; correct? 5 A Correct. 6 Q Who is Thomas Heeley? 7 A Thomas Heeley, he was the protein buyer at 8 Heinz. 9 Q When you go two-thirds of the way down the 10 page, it says "National Agricultural Statistics 11 Service and USDA." Do you see that? 12 A Yeah. 13 Q Are you familiar with the National 14 Agricultural Statistics Service? 15 A Somewhat. I mean I know that they survey, 16 I think actual numbers of -- I guess I'm actually 17 familiar with them, I'm a dairy buyer now and I know 18 what they do for dairy. I'm really not familiar what 19 they do on the chicken and egg side. 20 But maybe they do some more service, but 21 that would be me guessing, though. 22 Q Do you recall whether you reviewed the 23 information from the National Agricultural Statistics 24 Service when you were the egg buyer for Heinz? 25 A No, I don't.</p>	<p style="text-align: right;">173</p> <p>1 A No, not specifically this one. I do know 2 that like this Commodity Nuggets, I remember we would 3 get something called Commodity Nuggets. I don't 4 remember talking about Cleveland Research Company. 5 Q You are familiar with documents entitled 6 Commodity Nuggets? 7 A I'm familiar that we received them, yes. 8 Q Do you recall reviewing them when you were 9 the egg buyer for Heinz? 10 MR. AHERN: Object to the form. 11 A I don't remember. I really don't, no. 12 Q You can set that aside. Are you familiar 13 with "foodbusinessnews.net"? 14 A Yes. 15 Q What is foodbusinessnews.net? 16 A Food Business News was a magazine that 17 would publish kind of little articles about different 18 things, all across different commodities of food. And 19 then they later did, made their articles online. So 20 that's part of the .net. And I think they would send 21 out their monthly publication, you know. And that's 22 how it got to be the .net part. 23 Q Do you recall whether that monthly 24 publication included information about egg product 25 prices?</p>

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<p style="text-align: right;">174</p> <p>1 A Um, I guess I don't remember specifically, 2 but it, you know, covered a bunch of different ones. 3 Q Are you familiar with any publications by 4 Sparks? 5 A No. 6 Q When you were the egg buyer for Heinz, did 7 you receive any publications from Urner Barry? 8 A Not that I recall. 9 Q As the egg buyer for Heinz, you did monitor 10 Urner Barry egg prices, though; correct? 11 MR. AHERN: Objection, asked and answered. 12 A We -- I mean I would look on it weekly at 13 least. 14 Q Sure. And how did you get that information? 15 A I mean we just had access to their, like we 16 subscribed to their website and just log on and look 17 up whatever you want to look up. 18 Q Did you receive any publications from the 19 USDA? 20 A No. 21 Q Are you familiar with Feedstuffs Magazine? 22 A No. 23 Q Egg Industry Magazine? 24 A No. 25 Q How about Watt Poultry?</p>	<p style="text-align: right;">176</p> <p>1 marked for identification.) 2 Q You have been handed what's been marked as 3 Exhibit 20, which is an e-mail with the bates number 4 Heinz 00016776 to 777, and an attachment with the 5 bates range 16779 through 811. 6 If I can just first direct your attention 7 to the e-mail at the beginning. 8 A Okay. 9 Q Is this an e-mail from Mauricio Sirgo to 10 you and several others in September of 2008? 11 A Yes. 12 Q And at this time was Mr. Sirgo your 13 supervisor? 14 A Yes. 15 Q I believe you testified about John Krull 16 and Thomas Heeley. Who is Jessie Clark? 17 A He was vegetable buyer. 18 Q Who was Reed Hanson? 19 A Also a vegetable buyer. 20 Q Who is Cecelia Braum. 21 A She was a person that supported our team. 22 Q So turning to the attachment beginning on 23 16779, is this another example of a presentation to 24 the Purchasing Academy? 25 A Wouldn't be to the Purchasing Academy. The</p>
<p style="text-align: right;">175</p> <p>1 A No. 2 MR. SCHWINGLER: Now is actually probably a 3 good break point. 4 VIDEOGRAPHER: This ends tape number 4. We 5 are off the record. The time is 2:03 p.m. 6 (Recess taken.) 7 VIDEOGRAPHER: This begins tape number 5 of 8 the deposition of Michelle Kamzalow. We are on 9 the record. The time is 2:12 p.m. 10 BY MR. SCHWINGLER: 11 Q Ms. Kamzalow, earlier today you signed the 12 last page of Exhibit 10; correct? 13 A Yes. 14 Q Have you since had the opportunity to 15 review Exhibit 10? 16 A Yes. 17 Q And are you, do you understand your 18 obligations under Exhibit 10 to keep the highly 19 confidential information confidential? 20 A Yes. 21 Q And having now reviewed all of Exhibit 10, 22 you are comfortable with your signature on the 23 acknowledgment? 24 A Yes. 25 (THEREUPON, Deposition Exhibit 20 was</p>	<p style="text-align: right;">177</p> <p>1 Purchasing Academy kind of does the templates, but it 2 would be to that Global Ingredient Council. 3 Q And just to be clear, I think you testified 4 earlier that the Global Ingredients Council was 5 internal to Heinz? 6 A Yes. 7 Q If you turn to the fifth page of the power 8 point, it has at the top 16783? 9 A Okay. 10 (Interruption on the phone line.) 11 Q So at the top of this page it says "Source 12 Plan Situation Target Proposal"; correct? 13 A Yes. 14 Q And this particular example says "STP 15 dairy." At this time, and this is, the e-mail was 16 sent in September 2008, were you involved in the dairy 17 purchasing -- 18 A No. 19 Q -- for Heinz? 20 A No. 21 Q Do you see below STP dairy, under "team"? 22 A Yeah. 23 Q List a number of individuals and it lists 24 you on there as well? 25 A Yes.</p>

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<p style="text-align: right;">178</p> <p>1 Q Were you on a team to help prepare the STP 2 for dairy at this time?</p> <p>3 A Um, it looks that way, however, I mean I 4 think -- so this was a global team, and in Europe eggs 5 are considered dairy. So that's why I'm listed on 6 here.</p> <p>7 Q Sure, so if you go to the left and says 8 "issue definition," says "develop a common sourcing 9 and risk management strategy for dairy and egg 10 products between HEU and HNA identifying cost savings 11 opportunities by leveraging Heinz buying power, best 12 practice sharing and market intelligence."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q And this "issue definition," I believe you 16 testified earlier is where the broad objective of the 17 STP is identified; correct?</p> <p>18 A Correct.</p> <p>19 Q Here the objective was to develop a common 20 sourcing and risk management strategy for dairy and 21 egg products between HEU and HNA; is that correct?</p> <p>22 A Yes.</p> <p>23 Q What is HEU?</p> <p>24 A Heinz Europe.</p> <p>25 Q And HNA is Heinz North America?</p>	<p style="text-align: right;">180</p> <p>1 A Okay.</p> <p>2 Q Sure, but go ahead and finish your thought.</p> <p>3 A So the difference there is leveraging Heinz 4 buying power, you know, fully utilizing Heinz buying 5 power. You were asking what leveraging means.</p> <p>6 Q When you say fully leveraging Heinz buying 7 power, what do you mean by that?</p> <p>8 A Just means like the two groups would have, 9 you know, potentially more leverage than being 10 separate.</p> <p>11 Q When you say utilizing Heinz buying power, 12 utilizing to accomplish what?</p> <p>13 MR. AHERN: Object to the form.</p> <p>14 A Whatever we want to try to achieve.</p> <p>15 Q Would lower prices be one of those goals?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A We always want to pay as little as 18 possible. That's our, you know, in purchasing, that's 19 what we want to do.</p> <p>20 Q If you turn to the page ending in 16788, on 21 the right-hand side it says "Observations." There is 22 a box with a number of things listed underneath the 23 word "observations." Do you see that?</p> <p>24 A Uh-huh.</p> <p>25 Q And if you go down to "eggs," the third</p>
<p style="text-align: right;">179</p> <p>1 A Right.</p> <p>2 Q So this document talks about both dairy and 3 egg products?</p> <p>4 A Yes.</p> <p>5 Q And the phrase "leveraging Heinz buying 6 power," what does that mean?</p> <p>7 MR. AHERN: Object to the form.</p> <p>8 A That means, you know, North America may 9 have a certain spend and volume. Europe has a certain 10 spend and volume. If you put them together, it's 11 bigger, so you have more leverage.</p> <p>12 Q When you say leverage, what do you mean?</p> <p>13 A You know, more, maybe, leverage to work 14 with the suppliers. You have more to offer them so 15 they may offer you more.</p> <p>16 Q By leverage, do you mean buying power?</p> <p>17 MR. AHERN: Objection, asked and answered.</p> <p>18 A Yeah, I mean -- yeah, that's basically what 19 it means.</p> <p>20 Q Actually it says here "leveraging Heinz 21 buying power."</p> <p>22 A Yeah. So it's taking advantage, kind of, 23 of Heinz buying power by --</p> <p>24 MR. AHERN: I don't think there is a 25 question pending.</p>	<p style="text-align: right;">181</p> <p>1 bullet point says "utilize e-tender globally to track 2 potential new players."</p> <p>3 A Uh-huh.</p> <p>4 Q Are you familiar with the term "e-tender"?</p> <p>5 A Yes.</p> <p>6 Q What does e-tender mean?</p> <p>7 A Electronic tender, so electronic bid.</p> <p>8 Q And on the section of the page that says 9 "portfolio," about halfway down on the left side?</p> <p>10 A Uh-huh.</p> <p>11 Q Go down to "egg products" and then you go 12 over to the comment section on the right it says 13 "regional play due to shelf life." Do you see that?</p> <p>14 A Yes.</p> <p>15 Q What does that mean?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A That means, you know, even if we wanted to, 18 you know, buy products across the globe, even if you 19 wanted to buy an egg product across the globe, it 20 doesn't make sense due to the shelf life. But powders 21 with a longer shelf life, may be something we would 22 explore.</p> <p>23 Q Okay. Turn to page 16805, please.</p> <p>24 The top it says "next steps egg products."</p> <p>25 Do you see that?</p>

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<p style="text-align: right;">182</p> <p>1 A Yes.</p> <p>2 Q And then under on the left most column it</p> <p>3 says "broadening supply base" and then in the middle</p> <p>4 column under "eggs" it says "global RFI to identify</p> <p>5 supplier capability and attract potential new</p> <p>6 players."</p> <p>7 A Uh-huh.</p> <p>8 Q Then it says "do" and has the word "Jan"</p> <p>9 and under "RESP" says "C Small/M Kamzalow."</p> <p>10 First of all, what does "RESP" stand for?</p> <p>11 A Who was responsible.</p> <p>12 Q And M Kamzalow of stands for you?</p> <p>13 A Yes.</p> <p>14 Q Who is C. Small?</p> <p>15 A Clair Small.</p> <p>16 Q What was her responsibility at this time?</p> <p>17 A She would have been the egg buyer in</p> <p>18 Europe.</p> <p>19 Q To the middle of the column where it says</p> <p>20 "global RFI to identify supplier capability and</p> <p>21 attract potential new players" --</p> <p>22 A Uh-huh.</p> <p>23 Q -- what does RFI stand for?</p> <p>24 A Request for information.</p> <p>25 Q And did you issue a global RFI at this time</p>	<p style="text-align: right;">184</p> <p>1 market is what I remember from this.</p> <p>2 So you would plot the opportunities based</p> <p>3 on the ability to move in the market and the ability</p> <p>4 to make a move within your organization.</p> <p>5 Q When you say move in the market, what do</p> <p>6 you mean?</p> <p>7 A So the -- just because this is a global</p> <p>8 thing, I'm going to have to familiarize myself with it</p> <p>9 a little bit more, because I'm not exactly sure. It's</p> <p>10 in the appendix, so.</p> <p>11 Okay. The opportunity analysis is used</p> <p>12 to -- so we made those observations and it's kind of</p> <p>13 plotting which ones are the biggest ones you may want</p> <p>14 to go after, the easiest or kind of ranking them on</p> <p>15 what you would want to go after.</p> <p>16 Q Does market difficulty refer to the ability</p> <p>17 to change suppliers?</p> <p>18 A Yes.</p> <p>19 Q Does organizational difficulty refer to the</p> <p>20 ability to implement some sort of change within Heinz?</p> <p>21 A Yes.</p> <p>22 Q If you look under "portfolio" and you go</p> <p>23 all the way near the bottom where it says "enzyme</p> <p>24 modified" and you go over to the comments column, says</p> <p>25 "perceived custom developed."</p>
<p style="text-align: right;">183</p> <p>1 for egg product suppliers?</p> <p>2 A I did not.</p> <p>3 Q Do you know whether, is it Clair Small, do</p> <p>4 you know whether Clair Small issued a global RFI</p> <p>5 related to egg products at this time?</p> <p>6 A I don't know.</p> <p>7 Q And then turning to the page ending in</p> <p>8 16807, top of the page it says "Opportunity Analysis</p> <p>9 Egg Products." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q What does this page describe?</p> <p>12 MR. AHERN: Object to the form.</p> <p>13 A Just trying to remember what this tool was</p> <p>14 for.</p> <p>15 I'm sorry, what was your question?</p> <p>16 Q Let me ask it if a different way.</p> <p>17 Are you familiar with the term "opportunity</p> <p>18 analysis"?</p> <p>19 A Yes.</p> <p>20 Q What does that term mean?</p> <p>21 A The opportunity analysis, so just looking</p> <p>22 at this -- I'm familiar with it, but I haven't used it</p> <p>23 in a really long time.</p> <p>24 So market difficulty versus operational</p> <p>25 difficulty, how hard is it to move, make a move in the</p>	<p style="text-align: right;">185</p> <p>1 A Yes.</p> <p>2 Q Do you understand what is meant by</p> <p>3 "perceived custom developed"?</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 A I would say because it is not a commodity</p> <p>6 type item, it's perceived as more of a custom item.</p> <p>7 Q Perceived within Heinz?</p> <p>8 MR. AHERN: Object to the form.</p> <p>9 A I would say yeah, within Heinz we think</p> <p>10 that, or we treat it that way, to clarify.</p> <p>11 Q All right. You can set that aside.</p> <p>12 You used the term "utilize buying power"</p> <p>13 earlier.</p> <p>14 When you were the egg buyer for Heinz in</p> <p>15 2007 and 2008, did you utilize Heinz's buying power to</p> <p>16 negotiate lower egg prices?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A I mean I certainly tried. I would say, you</p> <p>19 know, if it was attractive to the supplier, they</p> <p>20 would, you know, see that as a benefit and want to do</p> <p>21 the best they can for Heinz if they were a good</p> <p>22 supplier.</p> <p>23 (THEREUPON, Deposition Exhibit 21 was</p> <p>24 marked for identification.)</p> <p>25 Q Handing you Exhibit 21, which is an e-mail</p>

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<p style="text-align: right;">186</p> <p>1 string with the bates range Heinz 00013117 through</p> <p>2 120. Top e-mail on the string is from Justin Millbret</p> <p>3 to you in October 2008 to you; is that correct?</p> <p>4 A Yes.</p> <p>5 Q Who was Justin Millbret?</p> <p>6 A He was our sales contact at Echo Lake.</p> <p>7 Q At this time in 2008 was Echo Lake a</p> <p>8 supplier of egg products to Heinz?</p> <p>9 A Yes.</p> <p>10 Q What products did Echo Lakes supply Heinz</p> <p>11 at that time?</p> <p>12 A Scrambled egg products.</p> <p>13 Q If you go to your e-mail near the bottom of</p> <p>14 the first page 4:28 p.m. on October 27th, 2008 to</p> <p>15 Justin Millbret and Scott Hall. Do you see where I</p> <p>16 am on the page?</p> <p>17 A Uh-huh.</p> <p>18 Q Who is Scott Hall?</p> <p>19 A I believe Scott was Justin's manager. They</p> <p>20 worked together.</p> <p>21 Q And it says in your e-mail "We need to</p> <p>22 start putting" -- "We need to start to put together</p> <p>23 pricing for next year's contract."</p> <p>24 A Yep.</p> <p>25 Q "I mentioned to Scott our business has</p>	<p style="text-align: right;">188</p> <p>1 A Right.</p> <p>2 Q If you turn to the second to last page in</p> <p>3 the e-mail string ending in 119, there is an e-mail</p> <p>4 from you to Scott Hall and Justin Millbret dated</p> <p>5 October 8, 2008. Do you see that?</p> <p>6 A Yes.</p> <p>7 Q And then there is in that e-mail, in the</p> <p>8 first numbered paragraph, you say "I would like to</p> <p>9 review the pricing structure as volume and spend with</p> <p>10 Echo Lake have increased 25 fold since last year."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Did Heinz increase its spend with Echo Lake</p> <p>14 25 times in the course of that year?</p> <p>15 A I mean it does look -- that's what I wrote,</p> <p>16 so.</p> <p>17 Q The next sentence says "With the increase</p> <p>18 in business, the more questions will be raised as what</p> <p>19 value Echo Lake is bringing to Heinz."</p> <p>20 I assume you meant the word "bringing"?</p> <p>21 A Uh-huh.</p> <p>22 Q Then says "Heinz is looking for value in</p> <p>23 terms of cost, risk management, lead time reduction,</p> <p>24 discounted payment terms and market intelligence."</p> <p>25 A Uh-huh.</p>
<p style="text-align: right;">187</p> <p>1 greatly increased with Echo Lake, we will be looking</p> <p>2 for more from Echo Lake in this upcoming contract."</p> <p>3 A Uh-huh.</p> <p>4 Q At this point in time had Heinz recently</p> <p>5 increased the quantity of egg products it purchased</p> <p>6 from Echo Lake?</p> <p>7 A Looks like, yes. Yep.</p> <p>8 Q When you said "We will be looking for more</p> <p>9 from Echo Lake in its upcoming contract," what were</p> <p>10 you referring to?</p> <p>11 A It could be pretty open. So instead of</p> <p>12 maybe Echo Lake saying oh, here's your price, they may</p> <p>13 offer us better payment terms or they might be able</p> <p>14 to -- I mean with, if the egg price was still going to</p> <p>15 be bad, maybe they would offer us a floor and ceiling</p> <p>16 price or a, say let's negotiate or something like</p> <p>17 that.</p> <p>18 It just depends on, you know, I was leaving</p> <p>19 it up for them to come to me with some ideas on how</p> <p>20 they could help us.</p> <p>21 Q You were suggesting to them that because</p> <p>22 Heinz was buying more from Echo Lake, that Echo Lake</p> <p>23 should offer better terms or better pricing or some</p> <p>24 benefit to Heinz in exchange?</p> <p>25 MR. AHERN: Object to the form.</p>	<p style="text-align: right;">189</p> <p>1 Q What did you mean by market intelligence?</p> <p>2 A That means that we would be sharing, that</p> <p>3 they do a regular commodity report, kind of like we</p> <p>4 looked at for Michael Foods, you know, just talk to me</p> <p>5 about kind of what their experience in the market,</p> <p>6 that kind of thing.</p> <p>7 Q You can set that aside.</p> <p>8 (THEREUPON, Deposition Exhibit 22 was</p> <p>9 marked for identification.)</p> <p>10 Q You have been handed what's been marked as</p> <p>11 Exhibit 22, which is an e-mail string, Heinz 00010592</p> <p>12 to 93.</p> <p>13 A Okay.</p> <p>14 Q First question I have is who is Kathy</p> <p>15 Conti?</p> <p>16 A Kathy Conti was a buyer for, in</p> <p>17 procurement. She was located at our Alden Merrell</p> <p>18 facility.</p> <p>19 Q What products did she buy?</p> <p>20 A I think Kathy bought everything at one</p> <p>21 point. So she was the egg buyer for Alden Merrells</p> <p>22 and Diane's before, you know, we kind of rolled up in,</p> <p>23 like the responsibility was integrated to me. So she</p> <p>24 had a lot of history with it.</p> <p>25 But at that time she had her own portfolio.</p>

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<p style="text-align: right;">190</p> <p>1 I don't exactly know what it was. Maybe like process 2 grains or something like that. But she was a buyer on 3 our team, so we would talk about, you know, any 4 experience she had.</p> <p>5 Q Your e-mail, so the middle of the first 6 page there is an e-mail from you to Kathy Conti at 7 4:45 p.m. on January 25th, 2008. Do you see that?</p> <p>8 A Yep.</p> <p>9 Q If you go halfway through I think the 10 second paragraph in your e-mail, the paragraph 11 starting with "I think it is important."</p> <p>12 If you go halfway through, there is a 13 sentence that begins with "The business will be 14 awarded to the egg vendors who can give us what we are 15 asking for, fair, stable price."</p> <p>16 Do you see that?</p> <p>17 A Uh-huh.</p> <p>18 Q What do you mean by "stable price."</p> <p>19 A That means not like the big peaks that we 20 were experiencing.</p> <p>21 Q Why was a stable price for egg products 22 important to Heinz?</p> <p>23 A We want to be able to meet our budget that 24 we set at the beginning of the year.</p> <p>25 Q Would you agree that a stable price results</p>	<p style="text-align: right;">192</p> <p>1 Q Did you read any documents discussing 2 stability in pricing?</p> <p>3 A When preparing?</p> <p>4 Q Yes.</p> <p>5 A No.</p> <p>6 Q You talked about cost certainty. I want to 7 talk a little bit about cost predictability. When you 8 were the egg buyer for Heinz, was it important for you 9 to be able to predict what Heinz's egg costs would be 10 for the forthcoming months or years?</p> <p>11 MR. AHERN: Object to the form.</p> <p>12 A Yes.</p> <p>13 Q You mentioned before sometimes Heinz 14 entered into arrangements with its egg suppliers that 15 had price floors and price ceilings; is that correct?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A That was an option. I can't really think 18 of an instance where we did that, at least in that 19 2007, 2008.</p> <p>20 Q Okay. If Heinz had agreed to a price floor 21 with a supplier, that would impose a minimum price 22 that Heinz would pay during the course of the 23 contract; correct?</p> <p>24 MR. AHERN: Object to the form.</p> <p>25 A Correct.</p>
<p style="text-align: right;">191</p> <p>1 in some certainty as a costs?</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 A Yes.</p> <p>4 Q And is cost certainty something that Heinz 5 finds important when purchasing egg products?</p> <p>6 MR. AHERN: Same objection.</p> <p>7 A I would say yes, they would like a stable 8 price and they think it's important to, you know, 9 understand what our costs are going to be.</p> <p>10 Q When you were the egg buyer in 2007 and 11 2008, was a stable price for egg products something 12 that you valued?</p> <p>13 A I would have valued it.</p> <p>14 Q Did you value it?</p> <p>15 A There was no stable price to value. It 16 just kept going up.</p> <p>17 So, I mean -- at the point where we were 18 able to do a locked price, I did value that, because I 19 knew what my price was going to be, yes.</p> <p>20 Q When you were preparing for this deposition 21 as Heinz's corporate representative, did you discuss 22 whether, with Mr. Sirgo, whether stability in pricing 23 was something that he looked for when he was the egg 24 buyer for Heinz?</p> <p>25 A No.</p>	<p style="text-align: right;">193</p> <p>1 Q Why don't I ask you this. When you 2 referred to price floors earlier, what were you 3 referring to?</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 Hypothetical.</p> <p>6 A A price floor would be a minimum price that 7 we agreed we would pay, that would be based on Urner 8 Barry, you know, would be an Urner Barry pricing kind 9 of as a starting point, but then have a floor and 10 ceiling -- well, we never would agree just to a floor, 11 a minimum price. We would agree to a ceiling, that we 12 would limit our spend.</p> <p>13 Q I just want to understand how a price floor 14 works just in practical terms.</p> <p>15 A Okay.</p> <p>16 Q So if you had a price floor of one dollar 17 and the market price for that product dropped to 95 18 cents --</p> <p>19 A Uh-huh.</p> <p>20 Q -- would Heinz still be obligated to pay 21 the one dollar?</p> <p>22 MR. AHERN: Object to the form.</p> <p>23 A Well, when we set the floor and ceiling, 24 it's based off of the Urner Barry market at the time, 25 and what, you know, whoever I'm working with, would</p>

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<p style="text-align: right;">194</p> <p>1 probably think where the Urner Barry could go over 2 that period of time, maybe even like an average of 3 what the Urner Barry would be over that period of 4 time. 5 So if it was a dollar, you know, if we did 6 agree to a dollar, that would mean we agree that we 7 would pay at least a dollar going forward because we 8 think Urner Barry is going to be somewhere in that 9 range at least. 10 Q So would you agree that the price floor 11 represents the minimum price that Heinz would pay 12 during that time period? 13 MR. AHERN: Object to the form. 14 A Yes. 15 Q And can you explain what you meant earlier 16 when you talked about price ceilings? 17 MR. AHERN: Object to the form. 18 A Price ceiling would be, again, based off of 19 the Urner Barry pricing, you know, maybe an upper 20 limit to where we think Urner Barry was going to be 21 over the time period we're talking about. 22 And so, hopefully the Urner Barry always is 23 within that floor and within that ceiling price and 24 then nobody wins or loses, but, yes, the ceiling would 25 be the maximum price based off of where we think Urner</p>	<p style="text-align: right;">196</p> <p>1 Q Then you say in the next sentence "We have 2 beaten the market by," I assume that's "\$20,000 in FY 3 08"? 4 A Yes. 5 Q All right. You can set that aside. 6 (THEREUPON, Deposition Exhibit 24 was 7 marked for identification.) 8 Q You have been handed Exhibit 24. 9 A Okay. 10 Q Which is an e-mail string with the bates 11 number Heinz 00017483 to 484. 12 And I want to direct your attention -- 13 first of all, this top e-mail, that's from you to 14 yourself and Mauricio Sirgo in September of 2007? 15 A Uh-huh. 16 Q If you look near the bottom of that first 17 e-mail there is a paragraph, last paragraph begins 18 "Dried whole egg is exchanged over current values in 19 fairly decent volumes and these are herein modified. 20 Buying interest on dried whites has somewhat waned and 21 as a consequence some sellers are increasingly open to 22 price negotiation resulting in completed trades 23 occupying a wider range of values." 24 Do you see that? 25 A Uh-huh.</p>
<p style="text-align: right;">195</p> <p>1 Barry is going to be in that time frame. 2 Q You can set that aside. 3 A Okay. 4 (THEREUPON, Deposition Exhibit 23 was 5 marked for identification.) 6 Q You have been handed what's been marked 7 Exhibit 23, which is an e-mail with the bates number 8 Heinz 00020160. 9 A Okay. 10 Q Is this an e-mail from you to Mauricio -- 11 excuse me, from you to Guy McIntyre copying Mauricio 12 Sirgo in December of 2008? 13 A Yes. 14 Q And in the e-mail you say, the second 15 paragraph, "Siegel Egg implemented contract with 16 market pricing with cap." Do you see that? 17 A Yes. 18 Q What do you mean by a contract market 19 pricing with cap? 20 A Cap is the same thing as ceiling. 21 Q Okay. So the cap was the maximum price -- 22 A Yes. 23 Q -- that Heinz paid for that product on that 24 contract? 25 A Yes.</p>	<p style="text-align: right;">197</p> <p>1 Q When you say "some sellers are increasingly 2 open to price negotiation," are you referring to 3 sellers of dried egg whites? 4 MR. AHERN: Object to the form. Lack of 5 foundation. 6 A Yeah, so these market updates are very much 7 just pulling data, or I shouldn't even call it data, 8 comments from different sources. And letting my 9 manager know kind of what's kind of being talked about 10 each week. 11 So this, and he knows that this is not my 12 words. 13 I would just pull this, a lot of times off 14 of like Urner Barry or Informa and just say, you know, 15 this is kind of what's going on there. 16 Q So the language that I read, those were not 17 your words? 18 A No, none of that is mine. It's all just 19 like a cut and paste. 20 Q Apart from, you know, the words on this 21 page, did you in your role as egg buyer for Heinz in 22 fall of 2007, did you observe that sellers were more 23 open to price negotiation than previously? 24 MR. AHERN: Object to the form. 25 A Um, back in that time frame, I mean, during</p>

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<p style="text-align: right;">198</p> <p>1 that week, I couldn't answer that. I don't know.</p> <p>2 Q You can set that aside.</p> <p>3 (THEREUPON, Deposition Exhibit 25 was</p> <p>4 marked for identification.)</p> <p>5 Q You have been handed what's been marked as</p> <p>6 Exhibit 25, which is an e-mail bates number Heinz</p> <p>7 00009891, and the attachment, which is an attachment</p> <p>8 of an excel spread sheet, printout of all five tabs in</p> <p>9 the spread sheet.</p> <p>10 I'll just note for the record that this</p> <p>11 particular spread sheet contains some imbedded</p> <p>12 documents, meaning when you view the spread sheet page</p> <p>13 on the screen, you can click on a link that would then</p> <p>14 open a new document.</p> <p>15 And we have those printed out and included</p> <p>16 as part of this Exhibit.</p> <p>17 So just looking at the e-mail on the first</p> <p>18 page, is this an e-mail from you to yourself in</p> <p>19 September of 2007?</p> <p>20 A Yes.</p> <p>21 Q And the subject is "Egg Pricing Request For</p> <p>22 Quote"?</p> <p>23 A Uh-huh.</p> <p>24 Q And it says here "Hello, Heinz is</p> <p>25 interested in locking in pricing on eggs for the time</p>	<p style="text-align: right;">200</p> <p>1 when you were the egg buyer for Heinz; correct?</p> <p>2 A Yes.</p> <p>3 Q And were all of the eggs that you purchased</p> <p>4 for Heinz purchased through an RFQ using one of these</p> <p>5 templates?</p> <p>6 A I don't see the emulsa products on here, so</p> <p>7 looks like no. Unless they are not described. But I</p> <p>8 think no. I think emulsa would also be something that</p> <p>9 was not on this.</p> <p>10 Q Excluding emulsa, were all of your egg</p> <p>11 product purchases accomplished through an RFQ using</p> <p>12 this template during your time as egg buyer?</p> <p>13 A Yes.</p> <p>14 Q How frequently did you send out RFQs using</p> <p>15 this template?</p> <p>16 A I mean I think we kind of did them as</p> <p>17 needed. It wasn't necessarily a regular -- so looks</p> <p>18 like we did it once right here and then did another</p> <p>19 one in the following year.</p> <p>20 Q Did you only send out -- just turning back</p> <p>21 to your e-mail, where it says "Heinz is interested in</p> <p>22 locking in pricing on eggs for the time period of</p> <p>23 October 1 through December 31," did you only send out</p> <p>24 RFQs if you were interested in locking in prices?</p> <p>25 A Yes.</p>
<p style="text-align: right;">199</p> <p>1 period of October 1st through December 31st, 2007."</p> <p>2 A Uh-huh.</p> <p>3 Q Do you see that?</p> <p>4 A Yep.</p> <p>5 Q Was this a draft e-mail you prepared to</p> <p>6 yourself that you would then send to egg suppliers?</p> <p>7 A It could have been that. I think also it</p> <p>8 could have been a blind carbon, blind copied with</p> <p>9 suppliers on it.</p> <p>10 Q It says "Please see the attached request</p> <p>11 for quote document and fill in fixed pricing FOB and</p> <p>12 estimated delivered for all items your company would</p> <p>13 like to supply for the time period of 10/1/07 to</p> <p>14 12/31/07 and return to me by Friday, 9/28."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q So turning to the attachment, the next page</p> <p>18 of the Exhibit, says on the top "Heinz 2007 template</p> <p>19 RFQ." Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Can you describe for me what this document</p> <p>22 is?</p> <p>23 A This is a spread sheet that is an RFQ</p> <p>24 template that we would use to obtain quotes.</p> <p>25 Q And you specifically used this template</p>	<p style="text-align: right;">201</p> <p>1 Q So does that mean that if you were</p> <p>2 purchasing on a basis other than a locked price, you</p> <p>3 would not have used the RFQ?</p> <p>4 A I think that's correct. I only used it for</p> <p>5 the locking of the price.</p> <p>6 Q And to your recollection, did you, in fact,</p> <p>7 purchase egg products during your time as buyer for</p> <p>8 Heinz where you didn't use an RFQ using this template?</p> <p>9 A Yes, because when I started I didn't -- you</p> <p>10 know, just started with the regular pricing on the</p> <p>11 Urner Barry.</p> <p>12 Q Okay. And in what format did producers</p> <p>13 respond to these RFQs?</p> <p>14 A They would just fill out this sheet and</p> <p>15 send it back to me.</p> <p>16 Q In your experience, did you observe that</p> <p>17 different suppliers would offer different prices in</p> <p>18 response to an RFQ?</p> <p>19 A Yes.</p> <p>20 Q How significant was price in your ultimate</p> <p>21 decision on which supplier to award the business to?</p> <p>22 A I would say it was significant. I mean --</p> <p>23 Q When you were preparing to testify as</p> <p>24 Heinz's corporate representative today, did you speak</p> <p>25 with Mr. Sirgo about whether he used a template RFQ</p>

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<p style="text-align: right;">202</p> <p>1 when purchasing egg products?</p> <p>2 A I think we did, yeah.</p> <p>3 Q Do you know whether during Mr. Sirgo's time</p> <p>4 as egg buyer, Heinz used a template RFQ to purchase</p> <p>5 eggs?</p> <p>6 A Yes, I believe that this one, you know,</p> <p>7 based off of what Mauricio used, so.</p> <p>8 Q For the time period 1999 until Mr. Sirgo</p> <p>9 became the buyer, I believe in '05, are you aware of</p> <p>10 whether Heinz used an RFQ when purchasing egg</p> <p>11 products?</p> <p>12 A I am not aware of any. I don't know what</p> <p>13 they used.</p> <p>14 Q You can set that aside. For the years 1999</p> <p>15 to 2008, what job titles, within Heinz, had</p> <p>16 responsibility for egg procurement decisions?</p> <p>17 A Whoever the egg buyer would be and then the</p> <p>18 manager and director of that group would all help make</p> <p>19 those decisions.</p> <p>20 Q Focusing on egg buyer, from 1999 to 2008,</p> <p>21 who served as the egg buyer for Heinz?</p> <p>22 A Well, talking myself, I was 2007. Mauricio</p> <p>23 was before me and then we saw that document with Ed</p> <p>24 Shick, so he was involved. Mauricio said that he took</p> <p>25 it over from Dennis Rantham. So Dennis was in the mix</p>	<p style="text-align: right;">204</p> <p>1 Q And when did Heinz acquire Alden Merrell?</p> <p>2 A I can put a ballpark on it around like</p> <p>3 2003, something like that.</p> <p>4 Q Was John Krull ever an egg buyer?</p> <p>5 A No.</p> <p>6 Q Did John Krull ever have responsibility for</p> <p>7 egg procurement decisions?</p> <p>8 A No.</p> <p>9 Q In your experience as the egg buyer for</p> <p>10 Heinz, what factors did you understand impacted the</p> <p>11 market price of egg products?</p> <p>12 A Um, so I would just get information from,</p> <p>13 you know, from talking to suppliers or market industry</p> <p>14 experts, would kind of tell me things that are going</p> <p>15 on in the market. But you know, I personally don't</p> <p>16 know what was impacting the pricing.</p> <p>17 But, you know, I would take what the</p> <p>18 industry experts were telling me to be true.</p> <p>19 Q Can you give me some examples of factors</p> <p>20 that you based on what the industry experts told you,</p> <p>21 believed to impact egg prices?</p> <p>22 A Yes.</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A So the, for example, I was, you know, told</p> <p>25 that, you know, grain prices are an input cost so that</p>
<p style="text-align: right;">203</p> <p>1 as well.</p> <p>2 Q Did Kathy Conti have any responsibility</p> <p>3 for --</p> <p>4 A Oh, yeah.</p> <p>5 Q -- egg procurement decisions?</p> <p>6 A So she was part of Alden Merrell and there</p> <p>7 was probably a time period where, you know, Alden</p> <p>8 Merrell was part of Heinz and she did her own egg</p> <p>9 buying, so yes. And she was the egg buyer. She took</p> <p>10 it over from me after, at the very end of 2008, so.</p> <p>11 Q Is she still the egg buyer?</p> <p>12 A No.</p> <p>13 Q Who is the current egg buyer?</p> <p>14 A Jason Bertocchi.</p> <p>15 Q Between Kathy Conti and Mr. Bertocchi, did</p> <p>16 anyone else serve as egg buyer?</p> <p>17 A Yes.</p> <p>18 Q Who was that?</p> <p>19 A There was a few folks actually, Steve</p> <p>20 Chaminelli, Brandon Barnes and also Kelly McGary.</p> <p>21 Q Did Kris Ketola have any responsibility for</p> <p>22 egg procurement decisions?</p> <p>23 A You know, he was Kathy's manager. So I</p> <p>24 think that, you know, he may have been part of the</p> <p>25 decision-making whenever Kathy was the egg buyer.</p>	<p style="text-align: right;">205</p> <p>1 would impact your egg price.</p> <p>2 Q Other than grain factors, is there anything</p> <p>3 else, or grain prices, is there anything else that you</p> <p>4 understood could impact the price of egg products?</p> <p>5 A I mean that was really the main one that</p> <p>6 they told me. But you know, any inputs that a</p> <p>7 producer would have would impact the end price. But I</p> <p>8 don't remember anything specific.</p> <p>9 Q Did you understand that consumer demand for</p> <p>10 eggs could impact the price of egg products?</p> <p>11 MR. AHERN: Object to the form.</p> <p>12 A I wouldn't say the demand. I mean I would</p> <p>13 think supply and demand can impact it, but you know,</p> <p>14 I'm not an economics major to understand how that</p> <p>15 plays into the price.</p> <p>16 Q Do you know whether the Atkins Diet fad of</p> <p>17 the mid 2000's had any impact on egg product prices?</p> <p>18 A I'm really not aware.</p> <p>19 (THEREUPON, Deposition Exhibit 26 was</p> <p>20 marked for identification.)</p> <p>21 Q Handing you what's been marked as Exhibit</p> <p>22 26, and bears the bates number Heinz 00015430, through</p> <p>23 432. The only question I have for you is on the last</p> <p>24 page, so it's the first e-mail in the string, dated</p> <p>25 May 8th, 2008 at 4:21 p.m.</p>

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<p style="text-align: right;">206</p> <p>1 A Okay.</p> <p>2 Q Is that an e-mail from you to yourself and</p> <p>3 Mauricio Sirgo?</p> <p>4 A Yes.</p> <p>5 Q And are these words in this e-mail your own</p> <p>6 or are you cutting and pasting from another source?</p> <p>7 A It would be a cutting and pasting.</p> <p>8 Q The last paragraph in that e-mail it says</p> <p>9 "Sellers are apparently becoming less willing to</p> <p>10 negotiate pricing structures with interested buyers</p> <p>11 unless it is part of a "package deal" because they are</p> <p>12 reluctant to be long on one half of the value added</p> <p>13 product and separation and short on the other."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q To be clear, is this specific paragraph</p> <p>17 something that you cut and paste into the e-mail?</p> <p>18 A Yes.</p> <p>19 Q We did talk a little bit earlier today</p> <p>20 about what happens when you sell an egg white and egg</p> <p>21 yolk.</p> <p>22 Do you understand what this e-mail is</p> <p>23 referring to when it says "sellers are reluctant to be</p> <p>24 long on one half of the value added product of</p> <p>25 separation and short on the other"?</p>	<p style="text-align: right;">208</p> <p>1 A Uh-huh.</p> <p>2 Q -- or more whites, as the case may be.</p> <p>3 A Right.</p> <p>4 Q So when you were the egg buyer, did you</p> <p>5 ever observe a circumstance in which there was a</p> <p>6 surplus of egg whites?</p> <p>7 MR. AHERN: Object to the form.</p> <p>8 A I mean people may have talked about it, but</p> <p>9 I never saw any data that supported it.</p> <p>10 Q Is the answer the same for egg yolks as</p> <p>11 well?</p> <p>12 A Yes.</p> <p>13 Q Are you aware of whether energy costs could</p> <p>14 play a role -- excuse me, let me withdraw that.</p> <p>15 Are you aware of whether energy costs could</p> <p>16 impact the price of egg products?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A I think that that would be, you know, kind</p> <p>19 of putting different circumstances together to get to</p> <p>20 that end point.</p> <p>21 People can make a case for that.</p> <p>22 (THEREUPON, Deposition Exhibit 27 was</p> <p>23 marked for identification.)</p> <p>24 Q You have been handed Exhibit 27, which is</p> <p>25 an e-mail with the bates number Heinz 00016433 and the</p>
<p style="text-align: right;">207</p> <p>1 A Yes.</p> <p>2 Q What's your understanding of what that</p> <p>3 means?</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 A That means to me, you know, that point</p> <p>6 about eggs are half white and half yolk, so you need</p> <p>7 to -- they want to be able to sell both parts.</p> <p>8 Q You can set that aside.</p> <p>9 Based on your experience as the egg buyer</p> <p>10 for Heinz, would you agree that the relative demand</p> <p>11 for egg yolks and egg whites can have an impact on the</p> <p>12 market price for each of those components?</p> <p>13 MR. AHERN: Object to the form.</p> <p>14 A I mean, I can't really say that, no. I</p> <p>15 mean -- no.</p> <p>16 Q Did you ever observe, in your role as egg</p> <p>17 buyer for Heinz, a situation in which there was a</p> <p>18 surplus of either whites or yolks?</p> <p>19 MR. AHERN: Object to the form.</p> <p>20 Q Let me ask, do you understand what I mean</p> <p>21 by surplus of whites or yolks?</p> <p>22 A I think so, yeah. Yes.</p> <p>23 Q What I mean is where there were too many,</p> <p>24 there is more yolks than people want to buy on the</p> <p>25 market --</p>	<p style="text-align: right;">209</p> <p>1 attachment running from 434 to 466.</p> <p>2 Is this an e-mail from Informa to you in</p> <p>3 October of 2008?</p> <p>4 A Yes.</p> <p>5 Q And have you turn to the page ending in</p> <p>6 16435, which is the second page of the attachment.</p> <p>7 A Okay.</p> <p>8 Q At the very top of the page, second full</p> <p>9 sentence it says "it's also very likely that</p> <p>10 tightening credit markets have made it more difficult</p> <p>11 for some producers to engage in expansionary products</p> <p>12 as they tend to be very capital intensive."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q In your experience as the egg buyer for</p> <p>16 Heinz, did you understand that expanding an egg farm</p> <p>17 cost a lot of money?</p> <p>18 A I mean I can't say I understand the details</p> <p>19 of that, but that supplier may say that.</p> <p>20 Q So this statement here that says "It's also</p> <p>21 very likely that tightening credit markets have made</p> <p>22 it more difficult for some producers to engage in</p> <p>23 expansionary products as they tend to be very capital</p> <p>24 intensive," would you agree with that statement?</p> <p>25 MR. AHERN: Object to the form.</p>

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<p style="text-align: right;">210</p> <p>1 A I definitely would have no knowledge to say</p> <p>2 that's -- you know, I can agree with that. It's just</p> <p>3 someone telling me that.</p> <p>4 Q So you don't know?</p> <p>5 A I don't know.</p> <p>6 Q You can set that aside.</p> <p>7 When you were the egg buyer for Heinz, did</p> <p>8 you monitor -- let me withdraw that.</p> <p>9 When you were the egg buyer for Heinz, were</p> <p>10 you aware that domestic producers were exporting</p> <p>11 excess to Europe?</p> <p>12 MR. AHERN: Object to the form.</p> <p>13 A I know they were exporting eggs. I don't</p> <p>14 know if I knew specifically to Europe.</p> <p>15 Q Did you monitor export activity of eggs or</p> <p>16 egg products?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A I didn't personally monitor it. I would</p> <p>19 get data, reports that maybe I would say it's up or</p> <p>20 down, or increasing. That's it.</p> <p>21 Q When you were preparing to testify today as</p> <p>22 Heinz's corporate representative, did you speak with</p> <p>23 Mr. Sirgo about egg exports?</p> <p>24 A No.</p> <p>25 Q Did you review any documents that related</p>	<p style="text-align: right;">212</p> <p>1 significance to you?</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 A I mean, not on a -- I mean I would say it's</p> <p>4 a, you know, it impacts the industry overall and so I</p> <p>5 mean at some point, I would think it would. But like</p> <p>6 I didn't, wasn't like tracking every export or</p> <p>7 anything like that. So I guess I don't know what</p> <p>8 level you mean. But any way.</p> <p>9 Q I'm just trying to get a sense of, you've</p> <p>10 talked about grain prices and different things that</p> <p>11 could impact egg prices, and I just want to get an</p> <p>12 understanding of whether exports was something that</p> <p>13 you paid any particular attention to when you were the</p> <p>14 egg buyer?</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 A I would say it wasn't a significant factor</p> <p>17 that we talked about, that it was like as talked about</p> <p>18 as grain. However, you know, it was still obviously a</p> <p>19 factor in supply that was available.</p> <p>20 Q Did you learn any information about why</p> <p>21 exports would occur?</p> <p>22 MR. AHERN: Object to the form.</p> <p>23 A What was told to me was kind of the weak</p> <p>24 U.S. dollar. So exports looked attractive for other</p> <p>25 countries.</p>
<p style="text-align: right;">211</p> <p>1 to egg exports?</p> <p>2 A We have. I'm not certain. I guess, I</p> <p>3 mean what all would be included when you say that?</p> <p>4 Q I'm trying to just understand if you had,</p> <p>5 outside of your experience as the egg buyer for Heinz,</p> <p>6 if you've gained any familiarity about Heinz's</p> <p>7 knowledge of egg product exports?</p> <p>8 A No.</p> <p>9 MR. AHERN: Other than the documents. I</p> <p>10 mean you said you may have seen some documents</p> <p>11 yesterday.</p> <p>12 A Yeah, I mean --</p> <p>13 Q Let me ask you again.</p> <p>14 Based on the documents you reviewed</p> <p>15 yesterday, did you, are you aware of -- based on the</p> <p>16 documents you reviewed yesterday, are you aware of</p> <p>17 whether Heinz monitored egg export activity between</p> <p>18 1999 and 2008?</p> <p>19 A So we received the Informa economic</p> <p>20 reports, that would include export activities.</p> <p>21 Q And this question is directed to you in</p> <p>22 your role personally as the egg buyer.</p> <p>23 A Uh-huh.</p> <p>24 Q When you were following the egg markets in</p> <p>25 general, did the presence of an export have any</p>	<p style="text-align: right;">213</p> <p>1 MR. SCHWINGLER: We'll break now. I think</p> <p>2 our tape is over.</p> <p>3 VIDEOGRAPHER: This ends tape number 5. We</p> <p>4 are off the record. The time is 3:11 p.m.</p> <p>5 (Recess taken.)</p> <p>6 VIDEOGRAPHER: This begins tape number 6 of</p> <p>7 the deposition of Michelle Kamzalow. We are on</p> <p>8 the record. The time is 3:22 p.m.</p> <p>9 BY MR. SCHWINGLER:</p> <p>10 Q Ms. Kamzalow, I just have a few questions</p> <p>11 for you about the factors that Heinz considers when</p> <p>12 choosing its egg product suppliers.</p> <p>13 I'd like to ask these questions to you in</p> <p>14 your capacity as a corporate representative for Heinz</p> <p>15 for the years 1999 to 2008, and then we can touch upon</p> <p>16 the factors that you considered personally when you</p> <p>17 were the egg buyer.</p> <p>18 But specifically as the corporate</p> <p>19 representative, other than price, what factors does</p> <p>20 Heinz consider when choosing an egg product supplier?</p> <p>21 A Quality. They would have to be able to</p> <p>22 meet our quality specifications, and their facility</p> <p>23 would have to be approved by our quality, vendor</p> <p>24 quality group.</p> <p>25 Q Did you say vendor quality group?</p>

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<p style="text-align: right;">214</p> <p>1 A Yes.</p> <p>2 Q What is the vendor quality group?</p> <p>3 A Vendor quality is a, kind of -- it is part</p> <p>4 of our Heinz quality team overall. But they are</p> <p>5 specifically focused on the vendors and that they meet</p> <p>6 certain standards.</p> <p>7 Q Are you familiar with what standards an egg</p> <p>8 product vendor is required to meet?</p> <p>9 A Yes. They would need to first submit some</p> <p>10 documentation and get approved.</p> <p>11 Q Do you know specifically, if you can give</p> <p>12 me an example of the type of standard that an egg</p> <p>13 product vendor is required to meet?</p> <p>14 A They would have to submit like a third</p> <p>15 party audit on their house of plan, letter of</p> <p>16 guarantee, fill out our vendor questionnaire.</p> <p>17 Q I think you testified earlier you used a</p> <p>18 term called C of A. Can you remind me what that</p> <p>19 stands for again?</p> <p>20 A Sure, Certificate of Analysis.</p> <p>21 Q And were egg product suppliers required to</p> <p>22 provide a Certificate of Analysis to Heinz?</p> <p>23 A Yes, with every shipment.</p> <p>24 Q So we've talked about price, we've talked</p> <p>25 about quality.</p>	<p style="text-align: right;">216</p> <p>1 Q Does Heinz consider the egg supplier's</p> <p>2 reliability in terms of delivering on time?</p> <p>3 A Yes.</p> <p>4 Q We touched on payment terms previously, but</p> <p>5 is a supplier's willingness to provide favorable</p> <p>6 payment terms something that's important to Heinz?</p> <p>7 A Yes.</p> <p>8 Q When Heinz is considering whether to</p> <p>9 purchase from an egg supplier, does Heinz take into</p> <p>10 consideration whether that supplier is a potential</p> <p>11 partner for innovation or product development?</p> <p>12 A Yes.</p> <p>13 MR. AHERN: Object to the form.</p> <p>14 Q Did you understand my question?</p> <p>15 A Yes.</p> <p>16 Q This may fall under the rubric of quality,</p> <p>17 but does Heinz consider the supplier's ability to</p> <p>18 provide a product with the proper viscosity when</p> <p>19 choosing egg product suppliers?</p> <p>20 A That would be very specific to our</p> <p>21 specification, so that would be just part of</p> <p>22 specifications, so yes.</p> <p>23 Q So viscosity would be an example of a</p> <p>24 specification?</p> <p>25 A On any item on a specification, yes.</p>
<p style="text-align: right;">215</p> <p>1 Does Heinz require its egg product</p> <p>2 suppliers to produce in conformity with Heinz's</p> <p>3 product specifications?</p> <p>4 A Yes.</p> <p>5 Q When Heinz considers from which egg product</p> <p>6 suppliers to purchase, does Heinz factor in consumer</p> <p>7 complaints?</p> <p>8 A No.</p> <p>9 Q Other than the vendor quality group, who</p> <p>10 within Heinz was responsible for insuring that Heinz</p> <p>11 received quality egg products?</p> <p>12 A Our manufacturing quality team.</p> <p>13 Q What role did the manufacturing quality</p> <p>14 team play in selecting egg vendors?</p> <p>15 A Manufacturing quality did not select them.</p> <p>16 They are just -- you asked who insures that they meet</p> <p>17 the quality standards.</p> <p>18 Q So after a vendor is selected, then the</p> <p>19 manufacturing quality team insures that that vendor is</p> <p>20 producing to a sufficient level of quality?</p> <p>21 A Right.</p> <p>22 Q Does Heinz -- when selecting an egg product</p> <p>23 supplier, does Heinz consider the supplier's customer</p> <p>24 service?</p> <p>25 A Yes.</p>	<p style="text-align: right;">217</p> <p>1 Q And does product -- is a supplier's ability</p> <p>2 to deliver a consistent product something that Heinz</p> <p>3 considers when choosing egg suppliers?</p> <p>4 MR. AHERN: Object to the form.</p> <p>5 A Yes.</p> <p>6 Q Do you understand what I mean by a</p> <p>7 consistent product?</p> <p>8 A The same product every time?</p> <p>9 Q Yes.</p> <p>10 A Yes.</p> <p>11 Q Is that something that Heinz values in an</p> <p>12 egg product supplier?</p> <p>13 A Yes.</p> <p>14 Q I think we touched on lead time earlier,</p> <p>15 but just to make sure we have it on the record, does</p> <p>16 Heinz consider a supplier's ability to provide a</p> <p>17 product within a certain lead time when considering</p> <p>18 which supplier to buy from?</p> <p>19 A Yes.</p> <p>20 Q And I believe you testified earlier, I</p> <p>21 don't want to put words in your mouth, but correct me</p> <p>22 if I'm wrong, the product lead time was important</p> <p>23 because it allowed Heinz to maintain flexibility in</p> <p>24 its production schedule; is that correct?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">218</p> <p>1 Q I may have asked you this before, but 2 during your time as the egg product buyer, did Heinz 3 have any quality issues with any of its existing egg 4 product suppliers?</p> <p>5 A Not that I can recall.</p> <p>6 Q Other than quality, did Heinz have any -- 7 let me see if I can ask this in a way that makes 8 sense.</p> <p>9 A document would be helpful. 10 (THEREUPON, Deposition Exhibit 28 was 11 marked for identification.)</p> <p>12 Q You have been handed Exhibit 28, which is 13 an e-mail with the bates number Heinz 00011768. Is 14 this an e-mail from Heather Raez to you in March of 15 2008?</p> <p>16 A Yes.</p> <p>17 Q Who is Heather Raez?</p> <p>18 A She is the planner at Chatsworth.</p> <p>19 Q And I notice in the e-mail address it says 20 the letters PPI in parenthesis next to her name. What 21 does that stand for?</p> <p>22 A Portion pack industries.</p> <p>23 Q And not to be repetitive, but portion pack 24 industries refers to the small condiment packages; 25 correct?</p>	<p style="text-align: right;">220</p> <p>1 Q You probably have touched on these a lot to 2 this point so we can move through quickly. I just 3 want to make sure I have a clear understanding. 4 What is Nancy's?</p> <p>5 A Nancy's is a frozen appetizer brand.</p> <p>6 Q And does Heinz use egg products in 7 manufacturing any food products that are sold under 8 the Nancy's brand?</p> <p>9 A Yes.</p> <p>10 Q What egg products does Heinz use for Nancy?</p> <p>11 A It would use liquid whole eggs and yolks.</p> <p>12 Q Alden Merrell, is that a dessert brand?</p> <p>13 A It is.</p> <p>14 Q What egg products does Heinz use for 15 manufacturing Alden Merrell products?</p> <p>16 A Primarily liquid whole eggs and also the 17 whipped whites.</p> <p>18 Q And remind me again, what is Diane's?</p> <p>19 A Also a dessert company.</p> <p>20 Q Does Heinz use egg products to manufacture 21 products for Diane's?</p> <p>22 A Yes.</p> <p>23 Q What egg products does Heinz use when 24 manufacturing products for Diane's?</p> <p>25 A And Diane's and Alden Merrell are no longer</p>
<p style="text-align: right;">219</p> <p>1 A Right.</p> <p>2 Q She says in her e-mail to you "I just 3 received another call from Golden Oval. Their 4 inventory on eggs are going to be extremely tight the 5 next four to six weeks and even though they are trying 6 to allocate for a volume they cannot guarantee, we 7 will be able to get what we need on a day's requested 8 even if sufficient L/T is given."</p> <p>9 So the question I have is other than 10 product quality, did Heinz ever have issues with an 11 egg product supplier meeting Heinz's standards for 12 things such as service, reliability and lead time?</p> <p>13 A You know, I don't recall of any offhand. I 14 mean, this one would point out that, you know, it did 15 happen. But nothing that was significant that I 16 remember.</p> <p>17 Q Are you aware during your time as egg 18 buyer, did you terminate any egg supplier 19 relationships due to service related issues?</p> <p>20 A No.</p> <p>21 Q All right. You can set that aside. 22 I'd like to ask you a few products that, 23 questions about the products that Heinz manufactures 24 using egg products.</p> <p>25 A Okay.</p>	<p style="text-align: right;">221</p> <p>1 part of Heinz.</p> <p>2 Q Okay. When did -- I can't remember if you 3 mentioned before, when did Heinz sell or divest itself 4 of Alden Merrell?</p> <p>5 A I believe that was 2010 or 2011 time frame.</p> <p>6 Q And is the answer the same for Diane's as 7 well?</p> <p>8 A Yes.</p> <p>9 Q When Alden Merrell and Diane's were owned 10 by Heinz, what egg products did Heinz use in 11 manufacturing products for those brands?</p> <p>12 A The liquid whole eggs and those angel whip 13 whites.</p> <p>14 Q PPI is another business line for which 15 Heinz used egg products; correct?</p> <p>16 A Correct.</p> <p>17 Q And what egg products did Heinz use in its 18 PPI line?</p> <p>19 A Primarily yolks, liquid yolks and then that 20 emulsa.</p> <p>21 Q And did Heinz frozen foods ever use egg 22 products?</p> <p>23 A Yes.</p> <p>24 Q And were Alden Merrell and Diane's part of 25 Heinz frozen foods?</p>

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<p style="text-align: right;">222</p> <p>1 A No.</p> <p>2 Q Was Nancy's part of Heinz frozen foods?</p> <p>3 A Yes.</p> <p>4 Q Other than Nancy's, did Heinz frozen foods</p> <p>5 use egg products to manufacture any product?</p> <p>6 A Yes.</p> <p>7 Q And other than what eggs were used for</p> <p>8 Nancy's, what egg products did Heinz frozen foods use?</p> <p>9 A Under the Smart Ones brand, they would use</p> <p>10 like the powders to go into their homemade pastas they</p> <p>11 would make, and then also they did frozen stuffed</p> <p>12 sandwiches that would have had the egg, scrambled eggs</p> <p>13 in there. And they also did a little bit of desserts</p> <p>14 like Smart Ones desserts that would have had liquid</p> <p>15 whole eggs.</p> <p>16 Q I know we touched on this a little earlier,</p> <p>17 but I just want to go through the list one more time.</p> <p>18 Has Heinz purchased egg products from Michael Foods?</p> <p>19 A Yes.</p> <p>20 Q Has Heinz purchased egg products from</p> <p>21 Golden Oval?</p> <p>22 A Yes.</p> <p>23 Q Has Heinz purchased egg products from</p> <p>24 Sonstegard?</p> <p>25 A Yes.</p>	<p style="text-align: right;">224</p> <p>1 mentioned, did Heinz purchase egg products from anyone</p> <p>2 else between 1999 and 2008?</p> <p>3 A No.</p> <p>4 Q And between 2008 and present, has Heinz</p> <p>5 purchased egg products from any new suppliers?</p> <p>6 A Like I mentioned, Rembrandt bought Golden</p> <p>7 Oval, so we did business with Rembrandt.</p> <p>8 Q Did Heinz ever purchase egg products from</p> <p>9 Primera?</p> <p>10 A I don't know.</p> <p>11 Q When Heinz evaluates which egg products</p> <p>12 supplier to purchase from, does Heinz take into</p> <p>13 consideration whether the supplier is vertically</p> <p>14 integrated?</p> <p>15 MR. AHERN: Object to the form.</p> <p>16 A That's not really a factor.</p> <p>17 Q Do you understand what I mean by vertically</p> <p>18 integrated?</p> <p>19 A Yes.</p> <p>20 Q When you prepared to testify today on</p> <p>21 behalf of Heinz, did you prepare to testify about</p> <p>22 issues related to animal welfare?</p> <p>23 A We spoke about it.</p> <p>24 Q Did you speak with Mr. Sirgo about animal</p> <p>25 welfare issues?</p>
<p style="text-align: right;">223</p> <p>1 Q Has Heinz purchased egg products from Rose</p> <p>2 Acre?</p> <p>3 A Yes.</p> <p>4 Q Has Heinz purchased egg products from</p> <p>5 Deb-El Foods?</p> <p>6 A That, I think that Deb-El is, was maybe</p> <p>7 part of another company. That sounds familiar, but I</p> <p>8 did not work with them directly.</p> <p>9 Q When you were the egg buyer for Heinz, did</p> <p>10 Deb-El ever submit a proposal to sell eggs to Heinz?</p> <p>11 A No.</p> <p>12 Q When speaking with Mr. Sirgo to prepare for</p> <p>13 this deposition, did you discuss Deb-El with him?</p> <p>14 A No.</p> <p>15 Q In reviewing documents to prepare for this</p> <p>16 deposition, do you recall seeing Deb-El on any of the</p> <p>17 documents?</p> <p>18 A No.</p> <p>19 Q Did Heinz purchase egg products from Echo</p> <p>20 Lake?</p> <p>21 A Yes.</p> <p>22 Q And did Heinz purchase egg products from</p> <p>23 Siegel Egg?</p> <p>24 A Yes.</p> <p>25 Q Other than the egg suppliers we've</p>	<p style="text-align: right;">225</p> <p>1 A Um, I don't recall that, if he was there</p> <p>2 when we were talking about it or not.</p> <p>3 Q Would you agree that animal welfare issues</p> <p>4 are important to Heinz?</p> <p>5 MR. AHERN: Object to the form.</p> <p>6 A I would say yes.</p> <p>7 Q Has animal welfare been an important issue</p> <p>8 for Heinz since 1999?</p> <p>9 MR. AHERN: Object to the form.</p> <p>10 A That's real hard for me to say.</p> <p>11 (THEREUPON, Deposition Exhibit 29 was</p> <p>12 marked for identification.)</p> <p>13 Q You have been handed what's been marked as</p> <p>14 Exhibit 29, which is an e-mail with the bates number</p> <p>15 Heinz 00009229 and an attachment 9230 through 9237.</p> <p>16 A Okay.</p> <p>17 Q Is this an e-mail from Thomas Heeley to</p> <p>18 Brian Tucker copying you from April of 2008?</p> <p>19 A Yes.</p> <p>20 Q Who is Thomas Heeley?</p> <p>21 A Thomas Heeley was a protein buyer.</p> <p>22 Q Who is Brian Tucker?</p> <p>23 A Brian Tucker was a sales representative at</p> <p>24 Tip Top Poultry.</p> <p>25 Q Do you know who danc@tiptoppoultry.com is?</p>

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<p style="text-align: right;">226</p> <p>1 A No, I don't.</p> <p>2 Q And was Tip Top Poultry a poultry supplier</p> <p>3 for Heinz?</p> <p>4 A Yes.</p> <p>5 Q What did Heinz buy from Tip Top Poultry?</p> <p>6 A They bought frozen chicken -- actually, I'm</p> <p>7 not even sure it was frozen, just chicken.</p> <p>8 Q So this e-mail from Tom Heeley to Tip Top</p> <p>9 Poultry says "Please find attached our new Food Safety</p> <p>10 Policy for meat and poultry."</p> <p>11 A Okay.</p> <p>12 Q If you turn to the attachment on the first</p> <p>13 page, it says "Food Safety Policy For Meat and</p> <p>14 Poultry."</p> <p>15 A Uh-huh.</p> <p>16 Q Did you review this document when you</p> <p>17 prepared for your deposition?</p> <p>18 A I'm not sure it was the same version, but</p> <p>19 we reviewed something like this.</p> <p>20 Q And when you were the egg buyer for Heinz,</p> <p>21 were you aware of, that Heinz had a Food Safety Policy</p> <p>22 for meat and poultry?</p> <p>23 A It's hard to remember back then, that we</p> <p>24 did, that I remember at the time, but I would think</p> <p>25 that we always had a stance on it.</p>	<p style="text-align: right;">228</p> <p>1 A That was a long question. Can you repeat</p> <p>2 it?</p> <p>3 Q Yes. So you spoke with Mr. Sirgo to</p> <p>4 prepare for today's deposition; right?</p> <p>5 A Uh-huh.</p> <p>6 Q You had you read a number of documents;</p> <p>7 correct?</p> <p>8 A Yes.</p> <p>9 Q And you spoke with your counsel; correct?</p> <p>10 A Yes.</p> <p>11 Q I don't want you to get into what your</p> <p>12 lawyers told to you, but just generally, when you were</p> <p>13 preparing for the deposition today, did you learn</p> <p>14 whether Heinz added an animal welfare program to its</p> <p>15 Food Safety Policy for meat and poultry?</p> <p>16 A I know there was one that exists, yes.</p> <p>17 Q Do you know when that was added to the</p> <p>18 policy?</p> <p>19 A No, I don't know when.</p> <p>20 Q Do you have any reason to believe that it</p> <p>21 was not in July of 2004 as indicated on this document?</p> <p>22 A I would have no reason to believe that.</p> <p>23 Q If you could turn to the page ending in</p> <p>24 9236, where it says "animal welfare" on the left side.</p> <p>25 A Uh-huh.</p>
<p style="text-align: right;">227</p> <p>1 Q So if you turn to the second page of the</p> <p>2 attachment, which has the bates number ending in 9231,</p> <p>3 it's a chart that says "Revision History," do you see</p> <p>4 that?</p> <p>5 A Yes.</p> <p>6 Q And then if you go near the bottom of that</p> <p>7 chart, July 16th, 2004?</p> <p>8 A Uh-huh.</p> <p>9 Q There is an entry that says "added foreign</p> <p>10 material criteria for meat products, added Canada as</p> <p>11 an approved beef sourcing company and added animal</p> <p>12 welfare requirements program to policy."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Now, is it your understanding that in July</p> <p>16 of 2004 Heinz added an animal welfare program</p> <p>17 requirement to its Food Safety Policy for meat and</p> <p>18 poultry?</p> <p>19 A Well, reading this, that's what it says.</p> <p>20 But back at the time, it's hard to say I knew that.</p> <p>21 Q Apart from what you knew and when you were</p> <p>22 the egg buyer in 2007 and 2008, and your preparation</p> <p>23 for your deposition today, did you discuss with anyone</p> <p>24 whether Heinz added an animal welfare program to its</p> <p>25 Food Safety Policy for meat and poultry?</p>	<p style="text-align: right;">229</p> <p>1 Q And then says "Suppliers are required to</p> <p>2 have implemented validated animal welfare programs to</p> <p>3 prevent the abuse of animals."</p> <p>4 Do you see that?</p> <p>5 A Uh-huh.</p> <p>6 Q To your knowledge, does that requirement</p> <p>7 still exist in Heinz's Food Safety Policy today?</p> <p>8 A Yes.</p> <p>9 Q And did that requirement exist in the Food</p> <p>10 Safety Policy when you were the egg buyer in 2007 and</p> <p>11 2008?</p> <p>12 A Yes.</p> <p>13 Q And I note that in the upper left-hand</p> <p>14 corner of the document, it says "Heinz North America</p> <p>15 Quality Management System." What is the Quality</p> <p>16 Management System?</p> <p>17 A I can only speculate what exactly that</p> <p>18 means. It really came out of our quality group,</p> <p>19 exactly what that means.</p> <p>20 Q Let me ask a different question.</p> <p>21 Does Heinz consider animal welfare to be a</p> <p>22 quality issue?</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A Yes.</p> <p>25 Q Set that aside.</p>

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<p style="text-align: right;">230</p> <p>1 Does Heinz currently have any animal 2 welfare standards related to egg-laying hens? 3 A Can you ask me that again? 4 Q Yeah, does Heinz currently have any animal 5 welfare standards related to egg-laying hens? 6 MR. AHERN: Object to the form. 7 A I'd say I'm not aware of anything 8 specifically for egg-laying hens. 9 Q Does Heinz have any animal welfare 10 requirements for its egg product suppliers? 11 MR. AHERN: Currently? 12 MR. SCHWINGLER: Correct. 13 A I mean it would be covered in that, just 14 animal welfare. 15 MR. AHERN: The question is specifically 16 for egg product suppliers. 17 A I would say no. 18 MR. SCHWINGLER: Go off the record for one 19 minute. 20 VIDEOGRAPHER: We are off the record. The 21 time is 3:46 p.m. 22 (Off the record.) 23 VIDEOGRAPHER: We are on the record. The 24 time is 3:47 p.m. 25 (THEREUPON, Deposition Exhibit 30 was</p>	<p style="text-align: right;">232</p> <p>1 products tab from the North America page, if you can 2 turn to Section 1.3, which is halfway down that page 3 that says "Animal Husbandry and Welfare." 4 A Uh-huh. 5 Q Actually, sorry, let's go back to the first 6 page. 7 So the first page says at the top "H. J. 8 Heinz Company Vendor Questionnaire." Do you see that? 9 A Yes. 10 Q Did you use a document like this when you 11 were the egg buyer? 12 A Yes. 13 MR. AHERN: Object to the form. 14 MR. SCHWINGLER: What's the objection? 15 MR. AHERN: Time frame. 16 Q When you were the egg buyer for Heinz, 17 which I believe is in 2007 and 2008 -- 18 A Uh-huh. 19 Q -- did you use a vendor questionnaire like 20 this? 21 MR. AHERN: When you say "like this," 22 that's also the objection. 23 Q Okay. Let's be just crystal clear on this. 24 Do you understand this to be an example of 25 a vendor questionnaire from Heinz?</p>
<p style="text-align: right;">231</p> <p>1 marked for identification.) 2 Q You have been handed what's been marked as 3 Exhibit 30. For the record, Exhibit 30 is a document 4 that was produced in native format by Heinz with the 5 bates number Heinz 00000635. It was produced as an 6 excel spread sheet. 7 This excel spread sheet has the ability to 8 navigate between screens by clicking on the links that 9 then take you to other screens. And so what this 10 Exhibit reflects is the first page is a printout of 11 the first tab entitled "Global Table of Contents" in 12 the spread sheet. 13 Then it is a printout of the tab entitled 14 "North America Table of Contents," which you get to 15 from the first page by clicking on the North America 16 link. 17 The next page after that is a printout of 18 the tab entitled "Egg Products," which you get to by 19 clicking on the egg products link from the North 20 America page. 21 And the last page is a printout of a tab 22 entitled "Meat and Poultry," which is from the North 23 America page clicking on meat and poultry. 24 So the first question I have is if you turn 25 to the third page of the document, which was the egg</p>	<p style="text-align: right;">233</p> <p>1 A Yes. 2 Q Is this document, does this document -- and 3 you used a vendor questionnaire when you were the egg 4 buyer; correct? 5 A Yes. 6 Q Does this document -- is this document 7 representative or similar to the vendor questionnaire 8 that you used when you were the egg buyer? 9 MR. AHERN: Object to the form. 10 A Yes. 11 Q Okay. All right, so just -- when you sent 12 a vendor questionnaire when you were the egg buyer, 13 what was the purpose of doing that? 14 A That would be to try to approve a new 15 supplier. 16 Q So the objective was to ask questions of a 17 new supplier? 18 A Uh-huh. 19 Q And those -- 20 A Yes. 21 Q The answers to those questions would be 22 used in determining whether to approve that supplier? 23 A Yes. 24 Q So now turning to the third page of the 25 Exhibit and halfway down the page, where it says 1.3,</p>

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<p style="text-align: right;">234</p> <p>1 "Husbandry and Welfare." 2 A Uh-huh. 3 Q Section 1.3.3 asks "How are livestock 4 husbandry systems verified to insure they are humane." 5 Do you see that? 6 A Uh-huh. 7 Q Why does Heinz ask its suppliers to 8 describe how they verify that their livestock 9 husbandry systems are humane? 10 A I really don't know. You know, this is a 11 vendor quality document, and it's really -- I just 12 pass it out and collect it back. I really don't read 13 it or talk about it, so I'm not exactly sure why. 14 Q Is it fair to say that Heinz won't just 15 take a supplier's word for it when a supplier says we 16 produce our meat products in a humane fashion? 17 MR. AHERN: Object to the form. 18 A I mean, we have to have documentation on 19 all suppliers, so that would be true. We do not just 20 take, to say that, yeah, we do, is not sufficient. 21 Q And Heinz requires documentation of animal 22 husbandry as well? 23 A Oh, I just meant this, the document. So I 24 don't know. 25 Q Okay. If you turn to the last page of the</p>	<p style="text-align: right;">236</p> <p>1 any preference. I just want to make sure there is a 2 clear record. Let's call it Exhibit 32. 3 (THEREUPON, Deposition Exhibit 32 was 4 marked for identification.) 5 Q You have been handed Exhibit 32, which is a 6 document with the bates number Heinz 00021145 through 7 21148. It says at the top "Heinz Europe Technical 8 Services Policies." 9 And then to the right it has the notation 10 "EM 028." 11 Have you seen this document before? 12 A I don't recall seeing it before. 13 Q Did you review this document when you 14 prepared for your deposition today? 15 A No, I don't remember. 16 Q Okay. So reviewing this Exhibit doesn't 17 refresh your recollection on EM 028? 18 A No. 19 Q All right. Are you familiar with the 20 phrase the Five Freedoms? 21 MR. AHERN: Object to the form. 22 A No. 23 Q If you look at the first page of Exhibit 3 24 2, under "Introduction," the second paragraph says "In 25 addition to compliance with all local and European</p>
<p style="text-align: right;">235</p> <p>1 document, which again was a printout of the tab 2 entitled "Meat and Poultry," go to Section 1.2, a 3 third of the way down the page. 4 A Uh-huh. 5 Q You see it says "Animal Welfare"; correct? 6 A Yes. 7 Q Then in green it says "Please study the 8 Heinz animal welfare policy EM 028." Are you familiar 9 with the Heinz animal welfare policy EM 028? 10 A No, not really. 11 Q Have you heard of that term before? 12 A The previous Exhibit was a meat and poultry 13 policy, so it could have been related. But, no, I'm 14 not familiar with it. 15 (THEREUPON, Deposition Exhibit 31 was 16 marked for identification.) 17 Q You have been handed Exhibit 31, which is 18 an e-mail with the bates number Heinz 00020798. 19 And, well, you know what, let me -- I think 20 we got a mistake here on the cover e-mail. Let's 21 remove the first page from the Exhibit so the e-mail 22 from Chris Blodgett to Alessandra Nardeny is not part 23 of the Exhibit. 24 And actually, I don't know how you want to 25 handle this, we can do a new Exhibit 31, if you have</p>	<p style="text-align: right;">237</p> <p>1 Union legislation in force in the country of origin, 2 H. J. Heinz require that its suppliers have regard 3 with the principle of the Five Freedoms for animal 4 welfare." 5 Do you see that? 6 A Uh-huh. Yes. 7 Q Does that refresh your recollection on 8 about the phrase the Five Freedoms? 9 MR. AHERN: Object to the form. 10 A It's not something I'm real familiar with, 11 so it doesn't refresh, no. 12 Q You can set that aside. 13 Are you aware of whether Heinz has 14 different animal welfare standards for its suppliers 15 in Europe than it does in the United States? 16 MR. AHERN: Object to the form. 17 A I'm not aware if they are the same or 18 different. 19 Q Does Heinz agree that the egg-laying hens 20 should have freedom from hunger and thirst? 21 MR. AHERN: Object to the form. 22 A I would agree. 23 Q And as the representative designated to 24 testify on behalf of Heinz today, does Heinz agree 25 that egg-laying hens should be free from discomfort?</p>

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<p style="text-align: right;">238</p> <p>1 MR. AHERN: Object to the form.</p> <p>2 A I would agree.</p> <p>3 Q Does Heinz agree that egg-laying hens</p> <p>4 should have freedom from pain, injury and disease?</p> <p>5 MR. AHERN: Object to the form.</p> <p>6 A I would agree.</p> <p>7 Q Does Heinz agree that egg-laying hens</p> <p>8 should have freedom to express normal behavior?</p> <p>9 A That seems real specific. I don't know.</p> <p>10 Q Does Heinz agree that egg-laying hens</p> <p>11 should have the freedom to be -- excuse me, withdrawn.</p> <p>12 Does Heinz agree that egg-laying hens</p> <p>13 should have freedom from fear and distress?</p> <p>14 MR. AHERN: Object to the form.</p> <p>15 A Yes.</p> <p>16 Q Does Heinz consider eggs produced pursuant</p> <p>17 to animal welfare standards to be premium eggs?</p> <p>18 MR. AHERN: Object to the form.</p> <p>19 A I feel like that's a pretty like wide</p> <p>20 statement. Can you ask it maybe a little differently?</p> <p>21 Q Let's look at --</p> <p>22 (THEREUPON, Deposition Exhibit 33 was</p> <p>23 marked for identification.)</p> <p>24 Q You have been handed Exhibit 33, which is</p> <p>25 an e-mail with the bates number Heinz 00017815 and the</p>	<p style="text-align: right;">240</p> <p>1 MR. AHERN: Okay.</p> <p>2 Q So it says "More and more farmers are</p> <p>3 creating premium products by expressing environmental</p> <p>4 and humane conditions."</p> <p>5 So when I refer to premium products, I'm</p> <p>6 referring to things like free-range eggs or cage-free</p> <p>7 eggs or the different things that producers refer to</p> <p>8 in saying, you know, this egg has been produced in a</p> <p>9 certain condition.</p> <p>10 A Uh-huh.</p> <p>11 Q So generally speaking -- well, the question</p> <p>12 you had was what did I mean by premium eggs.</p> <p>13 By premium, I mean an egg or a product</p> <p>14 that's, you know, more valuable, higher cost, more</p> <p>15 desirable in some way.</p> <p>16 My question is, does Heinz consider eggs</p> <p>17 that are produced under animal welfare standards to be</p> <p>18 premium eggs?</p> <p>19 MR. AHERN: Object to the form.</p> <p>20 A So you're saying, more specifically, you</p> <p>21 mean like a cage-free egg, do we value that?</p> <p>22 Q Well, a cage-free egg would be an example</p> <p>23 of one type of production method --</p> <p>24 A Okay.</p> <p>25 Q -- that I guess could be characterized as</p>
<p style="text-align: right;">239</p> <p>1 attachment 17819 through 17935.</p> <p>2 Turn your attention to the second page of</p> <p>3 the document, the first page of the attachment, which</p> <p>4 is from Sloan Trends and Solutions, Inc.</p> <p>5 Are you familiar with Sloan Trends and</p> <p>6 Solutions, Inc.?</p> <p>7 A No.</p> <p>8 Q And this document is entitled "A Taste of</p> <p>9 Tomorrow." Have you seen this document before?</p> <p>10 A I mean I saw I was copied on it, but I</p> <p>11 certainly don't remember it.</p> <p>12 Q If you turn to page ending in 17913, the</p> <p>13 top of the page there is a chart and then there is a</p> <p>14 bullet point, two-thirds of the way through that</p> <p>15 paragraph, after the bullet point says "Currently</p> <p>16 there are a number of producers benefiting from</p> <p>17 marketing campaigns" -- excuse me, the sentence</p> <p>18 before.</p> <p>19 "More and more farmers are creating premium</p> <p>20 products by stressing environmental and humane</p> <p>21 conditions."</p> <p>22 MR. AHERN: You are on 913?</p> <p>23 Q Yes, the first bullet point, 1, 2, 3, 4, 5,</p> <p>24 6, 7th sentence in, the first one that doesn't have a</p> <p>25 question mark starting with "more and more farmers."</p>	<p style="text-align: right;">241</p> <p>1 an animal welfare standard. Free-range could be</p> <p>2 another example. We will talk later about the UEP</p> <p>3 certified program.</p> <p>4 But just as a general matter, does Heinz</p> <p>5 consider eggs that are produced pursuant to animal</p> <p>6 welfare standards to be premium eggs?</p> <p>7 MR. AHERN: Object to the form.</p> <p>8 A I would say no.</p> <p>9 Q Why not?</p> <p>10 A Well, I would think everybody has to meet</p> <p>11 animal welfare standards. Not just some eggs. That's</p> <p>12 more of my personal opinion, but that's what comes to</p> <p>13 mind.</p> <p>14 Q You can set that document aside.</p> <p>15 Does Heinz currently purchase cage-free egg</p> <p>16 products?</p> <p>17 A No.</p> <p>18 Q Does Heinz currently purchase free-range</p> <p>19 egg products?</p> <p>20 A No.</p> <p>21 Q Does Heinz European operation purchase</p> <p>22 free-range egg products?</p> <p>23 A I don't know.</p> <p>24 Q When you were the egg buyer for Heinz in</p> <p>25 2007 and 2008, did Heinz purchase cage-free egg</p>

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<p style="text-align: right;">242</p> <p>1 products?</p> <p>2 A No.</p> <p>3 Q When you were the egg buyer, did Heinz</p> <p>4 purchase free-range egg products?</p> <p>5 A No.</p> <p>6 Q And just to be clear, you are not aware of</p> <p>7 whether Heinz purchases free-range egg products in</p> <p>8 Europe?</p> <p>9 A I'm not aware.</p> <p>10 Q Are you aware of whether Heinz has ever</p> <p>11 purchased free-range egg products in Europe?</p> <p>12 A I'm not aware.</p> <p>13 Q Has the Humane Society of the United States</p> <p>14 ever contacted Heinz about the -- let me withdraw</p> <p>15 that.</p> <p>16 Has the Humane Society of the United States</p> <p>17 ever contacted Heinz about the animal welfare</p> <p>18 practices of Heinz's egg product suppliers?</p> <p>19 A Yes, I believe so.</p> <p>20 Q When did the Humane Society first contact</p> <p>21 Heinz about animal welfare issues for egg-laying hens?</p> <p>22 A I don't know the exact date.</p> <p>23 Q Do you know a year?</p> <p>24 A I really don't know the exact timing of it.</p> <p>25 Q Do you know if it was before you were the</p>	<p style="text-align: right;">244</p> <p>1 A Yes, I've heard of it.</p> <p>2 Q What is your understanding of the UEP</p> <p>3 Certified Program?</p> <p>4 A So my understanding that there is a United</p> <p>5 Egg Producers program that sets certain guidelines for</p> <p>6 things such as so much cage space per a bird, and if</p> <p>7 someone, if a producer meets those guidelines, then</p> <p>8 they could, their output eggs can be considered UEP</p> <p>9 certified.</p> <p>10 Q Do you recall whether any of Heinz's</p> <p>11 customers requested that Heinz use UEP certified egg</p> <p>12 products?</p> <p>13 A The only one of know of is Jack in the Box.</p> <p>14 Q And what, when did Jack in the Box request</p> <p>15 that Heinz use UEP certified egg products?</p> <p>16 A Late 2008.</p> <p>17 Q How did Heinz respond to Jack in the Box's</p> <p>18 request?</p> <p>19 A We looked for a source for them.</p> <p>20 Q Did you find one?</p> <p>21 A I think it was right when I was kind of</p> <p>22 transitioning out of it, but Michael Foods did say</p> <p>23 they would be able to supply it. Whether it actually</p> <p>24 happened, you know, I moved on before that was</p> <p>25 finalized. But we did find that.</p>
<p style="text-align: right;">243</p> <p>1 egg buyer?</p> <p>2 A I don't know when it was.</p> <p>3 Q Okay.</p> <p>4 A I know they were contacted, but I don't</p> <p>5 know exactly when.</p> <p>6 Q Do you know whether PETA ever contacted</p> <p>7 Heinz about the animal welfare practices of Heinz's</p> <p>8 egg suppliers?</p> <p>9 A I believe so.</p> <p>10 Q Do you know approximately when PETA</p> <p>11 contacted Heinz on that topic?</p> <p>12 A I believe that was in like 2011.</p> <p>13 Q And what did, what issues did PETA raise in</p> <p>14 2011 about animal welfare?</p> <p>15 A I don't know.</p> <p>16 Q Do you know what, how Heinz responded to</p> <p>17 PETA's inquiries?</p> <p>18 A I believe they made a, kind of a general</p> <p>19 statement and it's posted on our website about, you</p> <p>20 know, that animal welfare is important.</p> <p>21 Q Have any retailers ever asked Heinz to use</p> <p>22 cage-free egg products?</p> <p>23 A Not that I know of.</p> <p>24 Q Are you familiar with the UEP Certified</p> <p>25 Program?</p>	<p style="text-align: right;">245</p> <p>1 Q And that, just to be clear, the eggs that</p> <p>2 related to Jack in the Box would have gone into little</p> <p>3 packets of condiments?</p> <p>4 A Yes.</p> <p>5 Q Sauces or dressing?</p> <p>6 A Yes.</p> <p>7 Q You mention cage space. Are you aware of</p> <p>8 any other elements of the UEP certified program in</p> <p>9 terms of the requirements that are imposed on</p> <p>10 suppliers?</p> <p>11 A I don't know of any other ones.</p> <p>12 Q Apart from the Jack in the Box event in</p> <p>13 2008, did Heinz ever specifically request UEP</p> <p>14 certified egg products from its suppliers?</p> <p>15 A No.</p> <p>16 Q Does Heinz currently require its egg</p> <p>17 product suppliers to be UEP certified?</p> <p>18 A No.</p> <p>19 Q Apart from the Humane Society and PETA,</p> <p>20 have any animal rights activists, groups approached</p> <p>21 Heinz about the animal welfare standards and practices</p> <p>22 of Heinz's egg product suppliers?</p> <p>23 A Not that I'm aware of.</p> <p>24 Q Are you familiar with the group Compassion</p> <p>25 Over Killing?</p>

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<p style="text-align: right;">246</p> <p>1 A No.</p> <p>2 Q How about Vegan Outreach?</p> <p>3 A No.</p> <p>4 Q How about United Poultry Concerns?</p> <p>5 A No.</p> <p>6 Q Are you aware of animal activists efforts</p> <p>7 to change other company's procurement practices?</p> <p>8 A No.</p> <p>9 Q Does Heinz keep track of its competitors's</p> <p>10 procurement practices as it relates to animal welfare?</p> <p>11 A No.</p> <p>12 (THEREUPON, Deposition Exhibit 34 was</p> <p>13 marked for identification.)</p> <p>14 Q You have been handed Exhibit 34, which is</p> <p>15 an e-mail string with the bates range Heinz 00012960</p> <p>16 through 964.</p> <p>17 Just focusing on the top e-mail on the</p> <p>18 first page, is that an e-mail from you to Brad Lindsay</p> <p>19 in October of 2008?</p> <p>20 A Yes.</p> <p>21 Q Brad Lindsay is with the PPI division of</p> <p>22 Heinz?</p> <p>23 A Yes.</p> <p>24 Q And the PPI division is the division that</p> <p>25 serves Jack in the Box; correct?</p>	<p style="text-align: right;">248</p> <p>1 looked into as a potential replacement for Golden Oval</p> <p>2 for the Jack in the Box products?</p> <p>3 A Yes.</p> <p>4 Q Who else did you consider? Anyone else?</p> <p>5 A Not that I recall.</p> <p>6 Q Did you consider Rose Acres?</p> <p>7 A Oh, I probably did ask them.</p> <p>8 Q Just to be clear, did you consider Rose</p> <p>9 Acres as a potential replacement for Golden Oval?</p> <p>10 A I would say potentially I did. I don't</p> <p>11 recall that I did, but I could have.</p> <p>12 (THEREUPON, Deposition Exhibit 35 was</p> <p>13 marked for identification.)</p> <p>14 Q This is Exhibit 35, which is an e-mail with</p> <p>15 the bates number Heinz 00012994. Is this an e-mail</p> <p>16 from you to Brad Ginnane? Probably mispronouncing</p> <p>17 that name.</p> <p>18 A Ginnane.</p> <p>19 Q And Aaron Heironimus.</p> <p>20 A Uh-huh.</p> <p>21 Q Who is Brad Ginnane?</p> <p>22 A Brad Ginnane was the sales representative</p> <p>23 that, you know, that was my contact at Rose Acre.</p> <p>24 Q Brad Ginnane was a Rose Acre employee?</p> <p>25 A Yes.</p>
<p style="text-align: right;">247</p> <p>1 A Yes.</p> <p>2 Q Your e-mail says "Good morning, Jack in the</p> <p>3 Box is requesting that eggs used in their products,</p> <p>4 companies/farms which are certified by UEP, United Egg</p> <p>5 Producers. Golden Oval is not UEP certified." Is</p> <p>6 that correct?</p> <p>7 A Right.</p> <p>8 Q Prior to this event in late 2008, was</p> <p>9 Golden Oval the egg product supplier for the products</p> <p>10 that were ultimately sold to Jack in the Box?</p> <p>11 A Yes.</p> <p>12 Q As a result of Jack in the Box's request</p> <p>13 for UEP certified egg products, did Heinz replace</p> <p>14 Golden Oval with another supplier for that account?</p> <p>15 A Like I said, I was transitioning off at</p> <p>16 that time, so I don't know what the end result was.</p> <p>17 Q You would agree, though, that Heinz began</p> <p>18 looking for a replacement for Golden Oval; correct?</p> <p>19 A Yes.</p> <p>20 Q And Heinz specifically began looking for a</p> <p>21 UEP certified supplier to replace Golden Oval;</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q You reference Michael Foods in this e-mail.</p> <p>25 Were there any other egg product suppliers that you</p>	<p style="text-align: right;">249</p> <p>1 Q And was Aaron Heironimus also a Rose Acre</p> <p>2 employee?</p> <p>3 A Yes.</p> <p>4 Q And your e-mail says "Brad, Aaron, I did</p> <p>5 not receive a reply from you on this. Please respond</p> <p>6 if Rose Acre is UEP certified and is interested in the</p> <p>7 Chatsworth business." What is Chatsworth?</p> <p>8 A Chatsworth is our facility in California.</p> <p>9 Q And does Chatsworth produce the egg</p> <p>10 products that were ultimately sold to Jack in the Box?</p> <p>11 A Yes.</p> <p>12 Q And so would you, does this refresh your</p> <p>13 recollection --</p> <p>14 A Yes.</p> <p>15 Q -- as to whether you inquired about Rose</p> <p>16 Acre replacing Golden Oval?</p> <p>17 A Yes.</p> <p>18 Q And did you, in fact, look into whether</p> <p>19 Rose Acres could replace Golden Oval for the Jack in</p> <p>20 the Box account?</p> <p>21 A Yes.</p> <p>22 Q Did Jack in the Box ever explain to Heinz</p> <p>23 why it was requiring UEP certified eggs?</p> <p>24 A No.</p> <p>25 Q When did you personally first become</p>

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<p style="text-align: right;">250</p> <p>1 familiar with UEP certified program?</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 A It would have been at some point during my</p> <p>4 buyer role, 2007 and '8.</p> <p>5 Q I asked you before about your understanding</p> <p>6 of the UEP certified program. When you were preparing</p> <p>7 to testify on Heinz's behalf, did you speak with</p> <p>8 Mr. Sirgo about the UEP certified program?</p> <p>9 A We did talk about it in general, I believe.</p> <p>10 Q And did you read any documents that related</p> <p>11 to the UEP certified program?</p> <p>12 A I mean, it might have been in a document</p> <p>13 that we talked about, but it wasn't, you know,</p> <p>14 explaining what the program was or anything.</p> <p>15 Q I guess what I just want to get at is when</p> <p>16 you testified earlier about your understanding of the</p> <p>17 UEP certified program, is that also your testimony as</p> <p>18 Heinz's representative about Heinz's understanding of</p> <p>19 the program?</p> <p>20 A Yes.</p> <p>21 (THEREUPON, Deposition Exhibit 36 was</p> <p>22 marked for identification.)</p> <p>23 Q You have been handed Exhibit 36, which is</p> <p>24 an e-mail string with the bates numbers Heinz 00013280</p> <p>25 through 13283. Looking at the first top e-mail on the</p>	<p style="text-align: right;">252</p> <p>1 looking for certified egg product suppliers for the</p> <p>2 Jack in the Box products, did you understand that</p> <p>3 buying a UEP certified product could result in</p> <p>4 increased price to Heinz?</p> <p>5 MR. AHERN: Object to the form.</p> <p>6 A Yes.</p> <p>7 Q And specifically, Michael Foods quoted you</p> <p>8 a 3 cent upcharge for UEP certified products?</p> <p>9 A Yes.</p> <p>10 Q And I apologize if I've asked you this</p> <p>11 before, but did Heinz ultimately buy UEP certified egg</p> <p>12 products to manufacture condiments for Jack in the</p> <p>13 Box?</p> <p>14 A I wasn't, you know, there any longer and I</p> <p>15 don't know the final decision. So I don't know.</p> <p>16 Q You can set that aside.</p> <p>17 MR. SCHWINGLER: We got one minute left on</p> <p>18 the tape. I only have a couple more minutes of</p> <p>19 questions, but I have more one minute. So take a</p> <p>20 break to change tapes.</p> <p>21 VIDEOGRAPHER: This ends tape number 6. We</p> <p>22 are off the record. The time is 4:21.</p> <p>23 (Recess taken.)</p> <p>24 VIDEOGRAPHER: This begins tape number 7 of</p> <p>25 the deposition of Michelle Kamzalow. We are on</p>
<p style="text-align: right;">251</p> <p>1 first page, is this an e-mail from you to Jeff</p> <p>2 Reisenberg --</p> <p>3 A Uh-huh.</p> <p>4 Q -- from December of 2008?</p> <p>5 A Yes.</p> <p>6 Q Who is Jeff Reisenberg?</p> <p>7 A I don't know. I don't remember.</p> <p>8 Q The third, I guess I should say the fourth</p> <p>9 paragraph in your e-mail that begins with "We can give</p> <p>10 you our UEP certificate, but all that does is clarify</p> <p>11 we participate in the UEP program" -- actually let's</p> <p>12 go up to the paragraph before.</p> <p>13 Says "Michael Foods response" and has a</p> <p>14 quote?</p> <p>15 A Uh-huh.</p> <p>16 Q Then the quote ends in the next paragraph</p> <p>17 with "Unfortunately, there is no middle road here."</p> <p>18 A Uh-huh.</p> <p>19 Q The next sentence says, outside of the</p> <p>20 quote, "If we want to have UEP certified product from</p> <p>21 Michael Foods, they are asking for 3 cents per pound</p> <p>22 up charge for the extra handling to certify the</p> <p>23 product." Do you see that?</p> <p>24 A Yes.</p> <p>25 Q So in December of 2008, when you were</p>	<p style="text-align: right;">253</p> <p>1 the record. The time is 4:23 p.m.</p> <p>2 BY MR. SCHWINGLER:</p> <p>3 Q Apart from the UEP certified program, has</p> <p>4 Heinz had contact with -- let me withdraw that.</p> <p>5 Apart from the UEP certified program, is</p> <p>6 Heinz familiar with any other animal welfare programs</p> <p>7 that relate to egg-laying hens?</p> <p>8 MR. AHERN: Object to the form.</p> <p>9 A No.</p> <p>10 Q Is Heinz familiar with the USDA process</p> <p>11 verified program?</p> <p>12 A No.</p> <p>13 Q Is Heinz familiar with the company Verified</p> <p>14 Process Control?</p> <p>15 A No.</p> <p>16 (THEREUPON, Deposition Exhibit 37 was</p> <p>17 marked for identification.)</p> <p>18 Q This is Exhibit 37. Exhibit 37 is an</p> <p>19 e-mail string with the bates range Heinz 00012779</p> <p>20 through 12782.</p> <p>21 A Okay.</p> <p>22 Q Just looking at the top e-mail on the first</p> <p>23 page, is that an e-mail from you to Christopher Bostic</p> <p>24 on September 30th, 2008?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">254</p> <p>1 Q Who is Christopher Bostic?</p> <p>2 A He was vendor quality for Heinz.</p> <p>3 Q And this top e-mail refers to the</p> <p>4 Chatsworth facility; correct?</p> <p>5 A Uh-huh.</p> <p>6 Q And that is the facility that produced</p> <p>7 products that were sold to Jack in the Box?</p> <p>8 A Uh-huh. Yes.</p> <p>9 Q If you go to the next e-mail down from</p> <p>10 Christopher Bostic to you and several others, earlier</p> <p>11 that day, he says "Just received this e-mail below</p> <p>12 from Jeff Cutler at Golden Oval concerning their</p> <p>13 status with the UEP program."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q So when Jack in the Box requested UEP</p> <p>17 certified eggs to go into their products, how did</p> <p>18 Golden Oval respond?</p> <p>19 A I believe this was at the same time, so</p> <p>20 what their response was is that they have their own</p> <p>21 program that's, you know, similar, but it's not</p> <p>22 exactly the UEP program.</p> <p>23 Q And do you know what program they, Golden</p> <p>24 Oval, was involved with at that time?</p> <p>25 A Sounded like it was their own program that</p>	<p style="text-align: right;">256</p> <p>1 the supply of eggs resulted in higher prices for egg</p> <p>2 products?</p> <p>3 A Yes.</p> <p>4 Q Is Heinz alleging that the supply of egg</p> <p>5 products declined during the period covered by this</p> <p>6 lawsuit?</p> <p>7 A Yes.</p> <p>8 Q Were there any periods of time during the</p> <p>9 period covered by this lawsuit, from 1999 to present,</p> <p>10 where there was an oversupply of eggs in the domestic</p> <p>11 market?</p> <p>12 MR. AHERN: Object to form.</p> <p>13 A I'm not aware of any.</p> <p>14 Q Who at Heinz has knowledge of the alleged</p> <p>15 conspiracy between egg producers?</p> <p>16 A Well --</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 Q Let me ask it a different way.</p> <p>19 Does anyone at Heinz have any knowledge of</p> <p>20 the alleged conspiracy among egg producers?</p> <p>21 A Well, I'm aware of alleged, if that's what</p> <p>22 you mean.</p> <p>23 MR. AHERN: Other than what you have</p> <p>24 learned from counsel, does anybody at Heinz have</p> <p>25 any knowledge of the alleged --</p>
<p style="text-align: right;">255</p> <p>1 they thought was sufficient for animal welfare.</p> <p>2 Q And are you aware of whether the Golden</p> <p>3 Oval program involved the USDA?</p> <p>4 A I'm not aware.</p> <p>5 Q Are you aware of whether the Golden Oval</p> <p>6 program was affiliated with the company Sparboe Farms</p> <p>7 in any way?</p> <p>8 A No.</p> <p>9 Q Have you heard of Sparboe Farms?</p> <p>10 A No.</p> <p>11 Q And have you heard of the person Ken</p> <p>12 Clippen?</p> <p>13 A No.</p> <p>14 Q Are you familiar with the American Humane</p> <p>15 Association, animal welfare standards for egg-laying</p> <p>16 hens?</p> <p>17 A No had.</p> <p>18 Q Are you familiar with the Nest Eggs</p> <p>19 Protocol?</p> <p>20 A No.</p> <p>21 Q In this case Heinz is alleging that egg</p> <p>22 producers conspired to reduce the supply of eggs;</p> <p>23 correct?</p> <p>24 A To reduce the supply, yes.</p> <p>25 Q And is Heinz alleging that a reduction in</p>	<p style="text-align: right;">257</p> <p>1 A I would say no.</p> <p>2 Q Other than information provided by your</p> <p>3 attorneys, what information does Heinz have to support</p> <p>4 its allegation of a conspiracy?</p> <p>5 A I think they have everything.</p> <p>6 Q When you say "I think they have</p> <p>7 everything," does "they" refer to your attorneys?</p> <p>8 A Yes, I'm sorry.</p> <p>9 Q And so let me just ask the question again</p> <p>10 because I'd like to get a clear answer.</p> <p>11 If it's possible to answer yes or no, other</p> <p>12 than information provided by its attorneys, what</p> <p>13 information -- let me rephrase that.</p> <p>14 Other than information provided by its</p> <p>15 attorneys, does Heinz have any information that</p> <p>16 supports its allegation of a conspiracy?</p> <p>17 MR. AHERN: Object to the form.</p> <p>18 A Are you asking if Heinz has any additional</p> <p>19 information?</p> <p>20 Q Correct.</p> <p>21 A No.</p> <p>22 Q Other than Baker and McKinsey and</p> <p>23 Mr. Ahern's current firm, did lawyers from any other</p> <p>24 law firm provide information to Heinz concerning its</p> <p>25 allegation of conspiracy?</p>

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<p style="text-align: right;">258</p> <p>1 A No.</p> <p>2 MR. AHERN: Object to the form.</p> <p>3 Q Did Heinz have any contact with any federal</p> <p>4 or state law enforcement official in connection with</p> <p>5 any investigation of possible antitrust violations</p> <p>6 regarding the production or sale of egg products?</p> <p>7 A I'm not aware of any.</p> <p>8 Q At any point in time between 1999 and 2008,</p> <p>9 did Heinz reduce the number of companies from which it</p> <p>10 bought egg products?</p> <p>11 A I really don't know.</p> <p>12 Q Did you, when you were the egg buyer for</p> <p>13 Heinz, did you have any issues with the quality of</p> <p>14 product provided by Michael Foods?</p> <p>15 A No.</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 Q Did you view Michael Foods as a quality</p> <p>18 producer of egg products?</p> <p>19 MR. AHERN: Same objection.</p> <p>20 A Yes.</p> <p>21 Q When I say quality, I mean the factors that</p> <p>22 you valued as an egg buyer for Heinz products, did you</p> <p>23 believe that Michael Foods provided Heinz with</p> <p>24 products that met Heinz's needs?</p> <p>25 MR. AHERN: Object to the form.</p>	<p style="text-align: right;">260</p> <p>1 purchased from them?</p> <p>2 A Yeah, we would continue to buy from them.</p> <p>3 Q And that, the carrot of continuing to buy</p> <p>4 certain volumes incentivized your suppliers into</p> <p>5 making price concessions; is that your experience?</p> <p>6 MR. AHERN: Object to the form.</p> <p>7 A I mean, I wouldn't necessarily they gave a</p> <p>8 price concession. I would say that they would work</p> <p>9 with us on working a price.</p> <p>10 Q Or putting in a price cap?</p> <p>11 A Yes.</p> <p>12 Q And the result of the locked price or the</p> <p>13 price cap, at least in some instances, was that Heinz</p> <p>14 avoided higher costs it could have realized had it</p> <p>15 been purely on a market basis; correct?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A Yes.</p> <p>18 MR. SCHWINGLER: I have no more questions.</p> <p>19 MR. AHERN: Let's go off the record.</p> <p>20 VIDEOGRAPHER: We are off the record. The</p> <p>21 time is 4:36 p.m.</p> <p>22 (Recess taken.)</p> <p>23 VIDEOGRAPHER: We are on the record. The</p> <p>24 time is 4:37 p.m.</p> <p>25 EXAMINATION</p>
<p style="text-align: right;">259</p> <p>1 A Well, what I think of is did they meet our</p> <p>2 specifications, yes.</p> <p>3 Q Do you feel like as the egg buyer from 2007</p> <p>4 to 2008, were you successful in negotiating lower</p> <p>5 prices for egg products?</p> <p>6 MR. AHERN: Object to the form.</p> <p>7 A I wouldn't say negotiating lower prices,</p> <p>8 no.</p> <p>9 Q I've seen, and we saw a few documents that</p> <p>10 referred to savings relative to the market. I think</p> <p>11 on the Rose Acres one we saw and there may have been</p> <p>12 one or two others.</p> <p>13 Do you feel that you were successful in</p> <p>14 achieving those cost avoidances that Heinz realized</p> <p>15 during the time period that you were the egg buyer?</p> <p>16 MR. AHERN: Object to the form.</p> <p>17 A Yes.</p> <p>18 Q In your view, being the person who went</p> <p>19 through the process of negotiating with the egg</p> <p>20 suppliers in 2007 and 2008, what factors provided you</p> <p>21 the most leverage in negotiating with your egg</p> <p>22 suppliers?</p> <p>23 MR. AHERN: Object to the form.</p> <p>24 A That they would maintain their business.</p> <p>25 Q Like the volume of product that you</p>	<p style="text-align: right;">261</p> <p>1 BY MR. AHERN:</p> <p>2 Q As you know, I'm Patrick Ahern, and I want</p> <p>3 to ask you just a few questions.</p> <p>4 In your questioning from opposing counsel,</p> <p>5 you were asked whether or not grain prices could</p> <p>6 impact the price of eggs. And I think your response</p> <p>7 was yes. Do you recall that?</p> <p>8 A Yes.</p> <p>9 Q And you were also asked whether grain</p> <p>10 prices could impact the price of grain products and I</p> <p>11 think your response to that was also yes. Do you</p> <p>12 recall that?</p> <p>13 A Egg products, yes.</p> <p>14 Q Egg products, yes.</p> <p>15 Now, are you an egg producer?</p> <p>16 A No.</p> <p>17 Q Are you an egg product producer?</p> <p>18 A No.</p> <p>19 Q Do you know what goes into the costs of</p> <p>20 producing eggs?</p> <p>21 A No.</p> <p>22 Q Do you know specifically what goes into the</p> <p>23 cost of producing egg products?</p> <p>24 A No.</p> <p>25 Q So do you know for a fact that grain prices</p>

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<p style="text-align: right;">262</p> <p>1 can impact the price of eggs?</p> <p>2 A No.</p> <p>3 Q Do you know for a fact that grain prices</p> <p>4 can impact the price of egg products?</p> <p>5 A No.</p> <p>6 Q You were asked about the demand for egg</p> <p>7 whites versus egg yolks. Do you recall that?</p> <p>8 A Yes.</p> <p>9 Q And have you in your position as an egg</p> <p>10 buyer for Heinz, have you ever studied the demand for</p> <p>11 egg whites and egg yolks?</p> <p>12 A No.</p> <p>13 Q So do you know -- do you feel confident</p> <p>14 that you can render any kind of an opinion with</p> <p>15 respect to the relationship between the demand for egg</p> <p>16 whites and egg yolks?</p> <p>17 A No.</p> <p>18 Q Okay. Can we find Exhibit 4, please?</p> <p>19 A Okay.</p> <p>20 Q All right. And opposing counsel asked you</p> <p>21 some questions about Exhibit 4. And I want you to go</p> <p>22 to the two pages that have at the bottom tab "egg</p> <p>23 assumptions."</p> <p>24 Do you see that?</p> <p>25 A Yes.</p>	<p style="text-align: right;">264</p> <p>1 Q You see the reference to below to "bird</p> <p>2 health/welfare"?</p> <p>3 A Yes.</p> <p>4 Q And then there is a reference to "new UEP</p> <p>5 cage size restrictions." Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Did you have independent knowledge of new</p> <p>8 UEP cage size restrictions?</p> <p>9 A No.</p> <p>10 Q Where did you get that information?</p> <p>11 A Talking with suppliers.</p> <p>12 Q Okay. And did you have any specific</p> <p>13 information about the cage size restrictions?</p> <p>14 A No.</p> <p>15 Q At any time did you attempt to learn about</p> <p>16 the UEP certified program in detail?</p> <p>17 A No.</p> <p>18 Q Why not?</p> <p>19 A Really it never came up, it's not what I</p> <p>20 do.</p> <p>21 Q Okay. When you say it never came up --</p> <p>22 A That I would need to know that detail.</p> <p>23 Q Did any customer other than Jack in the Box</p> <p>24 ask for egg products from UEP certified eggs?</p> <p>25 A No.</p>
<p style="text-align: right;">263</p> <p>1 Q And with respect to the first page there,</p> <p>2 you were asked some questions about bird housing</p> <p>3 conditions. Do you see the words "bird housing</p> <p>4 conditions"?</p> <p>5 A Yes.</p> <p>6 Q And what was your understanding -- where</p> <p>7 did -- did you independently learn any information</p> <p>8 about bird housing conditions?</p> <p>9 A No.</p> <p>10 Q Did you learn that information from other</p> <p>11 sources?</p> <p>12 A No.</p> <p>13 Q You see under Q1 and Q2 there is a blank</p> <p>14 with bird housing conditions.</p> <p>15 A Right.</p> <p>16 Q Was that a factor that you even considered</p> <p>17 in, when you filled out this chart?</p> <p>18 A No.</p> <p>19 Q Do you know what the bird housing</p> <p>20 conditions were as of the time of this document in</p> <p>21 October of 2007?</p> <p>22 A No.</p> <p>23 Q Do you know what bird housing conditions</p> <p>24 are at any egg producer?</p> <p>25 A No.</p>	<p style="text-align: right;">265</p> <p>1 Q To your knowledge, did any customer, prior</p> <p>2 to you assuming your position, ask for egg products</p> <p>3 produced from UEP certified eggs?</p> <p>4 A No.</p> <p>5 Q And how would you know that?</p> <p>6 A From my predecessor Mauricio.</p> <p>7 Q From talking to him?</p> <p>8 A Yes.</p> <p>9 Q In preparation for this deposition?</p> <p>10 A Yes.</p> <p>11 Q You were asked by opposing counsel if you</p> <p>12 understood that UEP cage size restrictions could</p> <p>13 impact the market price for egg products, and I</p> <p>14 believe your response was I would say that that was a</p> <p>15 factor. And then you said some other things.</p> <p>16 Do you recall that testimony?</p> <p>17 A Uh-huh, yes.</p> <p>18 Q Now, you didn't know what the UEP cage size</p> <p>19 restrictions actually were; correct?</p> <p>20 A Right.</p> <p>21 MR. SCHWINGLER: Objection to form.</p> <p>22 Q Did you know what the UEP cage size</p> <p>23 restrictions were?</p> <p>24 A No.</p> <p>25 Q Did you know how UEP cage sizes would</p>

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<p style="text-align: right;">266</p> <p>1 affect cost of production?</p> <p>2 A No.</p> <p>3 Q You are not an egg producer?</p> <p>4 A No.</p> <p>5 Q Now, you were asked a number of questions</p> <p>6 about fixed pricing and locked in pricing. Do you</p> <p>7 recall that?</p> <p>8 A Yes.</p> <p>9 Q And we looked at some documents that talked</p> <p>10 about the fact that you locked in pricing or engaged</p> <p>11 in fixed pricing with respect to certain suppliers</p> <p>12 from October 2007 through April of 2008. Do you</p> <p>13 recall that?</p> <p>14 A Yes.</p> <p>15 Q Now, did those prices have any relationship</p> <p>16 to Urner Barry?</p> <p>17 A Yes.</p> <p>18 Q And what relationship did those prices have</p> <p>19 to Urner Barry?</p> <p>20 A Um, it would have -- we have a pricing</p> <p>21 formula that is Urner Barry and then, so we would use</p> <p>22 that as a starting point. But in order to lock a</p> <p>23 price, it would be a premium above the Urner Barry to</p> <p>24 lock the price.</p> <p>25 Q Okay. So if I understand what you're</p>	<p style="text-align: right;">268</p> <p>1 to Rose Acre Farms, what products do those relate to?</p> <p>2 A That would be like whole egg, yolk, white</p> <p>3 and egg powder.</p> <p>4 Q Okay. Now, prior to October of 2007 had</p> <p>5 Heinz engaged in any fixed pricing or locked in</p> <p>6 pricing?</p> <p>7 A No.</p> <p>8 Q And prior to the time, at the time that you</p> <p>9 assumed the position, how do you know that?</p> <p>10 A From Mauricio.</p> <p>11 Q From talking to Mauricio Sirgo in</p> <p>12 connection with this preparation for this deposition?</p> <p>13 A Yes.</p> <p>14 Q I think I want to see if you can find</p> <p>15 Exhibit 5. The purchasing, I think the first</p> <p>16 Purchasing Academy one that was marked.</p> <p>17 A Okay.</p> <p>18 Q And if you go to the page ending in 5362,</p> <p>19 please.</p> <p>20 A Okay.</p> <p>21 Q And you see in the box that says</p> <p>22 "sociological"?</p> <p>23 A Yes.</p> <p>24 Q It says "PETA pushing for expansion of cage</p> <p>25 sizes." Do you see that?</p>
<p style="text-align: right;">267</p> <p>1 saying, at some time in October of 2007, you looked at</p> <p>2 the Urner Barry price at the time?</p> <p>3 A Uh-huh.</p> <p>4 Q Correct?</p> <p>5 A Yes.</p> <p>6 Q And then the suppliers would ask for a</p> <p>7 premium on top of that?</p> <p>8 A Yes.</p> <p>9 Q And that, and then you would reach an</p> <p>10 agreement with respect to that premium?</p> <p>11 A Yes.</p> <p>12 Q And that would be the fixed price?</p> <p>13 A Yes.</p> <p>14 Q Give me one second. I've got to find this</p> <p>15 Exhibit. Can you find Exhibit 10, please.</p> <p>16 MR. SCHWINGLER: Protective Order?</p> <p>17 Q Oh, I'm sorry, I'm looking for the Exhibit</p> <p>18 that is the one that has the -- it's Exhibit 7, I'm</p> <p>19 sorry. Can you find Exhibit 7?</p> <p>20 A Okay. Here it is.</p> <p>21 Q Now, looking at the second page of that</p> <p>22 Exhibit 7, can you tell me from Michael Foods what</p> <p>23 products that relates to?</p> <p>24 A That would be the dried egg products.</p> <p>25 Q The dried egg products. And with respect</p>	<p style="text-align: right;">269</p> <p>1 A Yes.</p> <p>2 Q Did you have independent knowledge of PETA</p> <p>3 pushing for expansion of cage sizes?</p> <p>4 A No.</p> <p>5 Q Where did you get that information?</p> <p>6 A I'm honestly not sure. Could have just</p> <p>7 been kind of like something we heard at some point.</p> <p>8 Q Do you know whether or not PETA was pushing</p> <p>9 for expansion of cage sizes?</p> <p>10 A No, I don't.</p> <p>11 Q Okay. Now, I think counsel asked you</p> <p>12 whether or not you would put truthful information into</p> <p>13 documents going to the Global Ingredients Council. Do</p> <p>14 you recall that?</p> <p>15 A Yes.</p> <p>16 Q And certainly you would not put false</p> <p>17 information into documents going to the Global</p> <p>18 Ingredients Council. Do you recall that?</p> <p>19 A Yes.</p> <p>20 Q Is it your testimony that you had heard</p> <p>21 about, heard something about PETA pushing for</p> <p>22 expansion of cage sizes from some source?</p> <p>23 A You know, it's hard to remember, but I</p> <p>24 wouldn't just put in a lie or something I made up.</p> <p>25 Q Right.</p>

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<p style="text-align: right;">270</p> <p>1 A So I would say --</p> <p>2 Q But the question is, do you recall what</p> <p>3 source that you got this information from?</p> <p>4 A No, I don't.</p> <p>5 Q But you didn't have independent knowledge</p> <p>6 of this; correct?</p> <p>7 A No.</p> <p>8 Q And did you attempt to verify this</p> <p>9 information?</p> <p>10 A No.</p> <p>11 Q You were asked a fair number of questions</p> <p>12 about grain-based pricing. Do you recall that?</p> <p>13 A Yes.</p> <p>14 Q And I believe you testified that Heinz</p> <p>15 opted not to engage in grain-based pricing because of</p> <p>16 the lengthy time period of three years; is that</p> <p>17 correct?</p> <p>18 A Yes.</p> <p>19 Q Now, I think you testified that -- I think</p> <p>20 you were asked whether or not grain-based pricing</p> <p>21 would be more stable. And I can't remember what your</p> <p>22 answer was. What was your answer?</p> <p>23 A I think that -- probably a long answer</p> <p>24 would be it could potentially be more stable if the</p> <p>25 crop of grains that were imported into the pricing is</p>	<p style="text-align: right;">272</p> <p>1 stable price was important. And I think you answered</p> <p>2 yes.</p> <p>3 Do you recall that testimony?</p> <p>4 A Yes.</p> <p>5 Q Okay. Would you rather have a stable low</p> <p>6 price or a stable high price?</p> <p>7 A Stable low price.</p> <p>8 Q Okay. You were asked questions about this</p> <p>9 firm called Informacon?</p> <p>10 A Uh-huh.</p> <p>11 Q How often were they right?</p> <p>12 A Almost never.</p> <p>13 Q Okay. You were asked whether or not energy</p> <p>14 costs could impact the price of egg products, and I</p> <p>15 think your response was I think that -- you know, kind</p> <p>16 of putting different circumstances together to get to</p> <p>17 that point. People can make a case for that.</p> <p>18 Do you know whether or not energy costs</p> <p>19 did, in fact, impact the price of egg products?</p> <p>20 A No.</p> <p>21 Q Now, you were asked about certain things</p> <p>22 that were contained in the Food Safety Policy for Meat</p> <p>23 and Poultry. Do you recall that?</p> <p>24 A Yes.</p> <p>25 Q And you were asked about a document which</p>
<p style="text-align: right;">271</p> <p>1 also stable. I don't know if it's a direct yes or no.</p> <p>2 Q Okay. So do you know for a fact whether or</p> <p>3 not grain-based pricing would actually be more stable?</p> <p>4 A I don't know.</p> <p>5 Q And prior to the time of this proposal from</p> <p>6 Jeff Cutler at Golden Oval in September of 2008, had</p> <p>7 any supplier previous to that made any proposal to</p> <p>8 Heinz with respect to grain-based pricing?</p> <p>9 A We saw there was like an e-mail mention</p> <p>10 about it, but never a proposal.</p> <p>11 Q Okay. Now, I think you were asked about a</p> <p>12 Heinz vendor audit.</p> <p>13 A Yes.</p> <p>14 Q Okay. And with respect to egg product</p> <p>15 suppliers, was there ever a requirement that the egg</p> <p>16 product suppliers undergo a UEP certified audit?</p> <p>17 A No.</p> <p>18 Q Was there ever any requirement that the egg</p> <p>19 product suppliers undergo any kind of an animal</p> <p>20 welfare audit?</p> <p>21 A No.</p> <p>22 Q I think you were asked a question about</p> <p>23 something in a document that talked about a "fair and</p> <p>24 stable price."</p> <p>25 And I think you were asked whether or not a</p>	<p style="text-align: right;">273</p> <p>1 indicated that there was an animal welfare program</p> <p>2 added to the Food Safety Policy for Meat and Poultry.</p> <p>3 Do you recall that?</p> <p>4 A Yes.</p> <p>5 Q Was there ever any animal welfare component</p> <p>6 to any Food Safety Policy relating to egg products?</p> <p>7 A No.</p> <p>8 Q You were asked about a statement, I believe</p> <p>9 it might have been the vendor questionnaire -- no, I'm</p> <p>10 sorry, it was in this same Food Safety Policy for Meat</p> <p>11 and Poultry, a statement that said "suppliers are</p> <p>12 required to have implemented validated animal welfare</p> <p>13 programs to prevent the abuse of animals."</p> <p>14 Was that ever applied to egg product</p> <p>15 suppliers?</p> <p>16 A No.</p> <p>17 Q You were shown the Heinz vendor</p> <p>18 questionnaire. Do you recall that?</p> <p>19 A Yes.</p> <p>20 Q And have you studied the Heinz vendor</p> <p>21 questionnaire recently?</p> <p>22 A Just for this deposition.</p> <p>23 Q Is there anything in the vendor</p> <p>24 questionnaire that is a requirement for UEP certified</p> <p>25 eggs?</p>

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<p style="text-align: right;">274</p> <p>1 A No.</p> <p>2 Q Or the UEP certified program?</p> <p>3 A No.</p> <p>4 Q Is there any requirement for egg products</p> <p>5 in the vendor questionnaire for any specific type of</p> <p>6 animal welfare program?</p> <p>7 A No.</p> <p>8 Q You were asked if Heinz considered eggs to</p> <p>9 be, that were produced in connection with some kind of</p> <p>10 animal welfare standard, to be premium eggs. Your</p> <p>11 answer to that was no. You were then asked why not.</p> <p>12 And I believe you said because all eggs</p> <p>13 should be produced in that way. Or something to that</p> <p>14 effect.</p> <p>15 Was that your personal view?</p> <p>16 A Yes.</p> <p>17 Q Okay. Does Heinz have a specific position</p> <p>18 as to how eggs and egg products should be produced?</p> <p>19 A No.</p> <p>20 Q I believe you were asked whether or not the</p> <p>21 HSUS had ever contacted eggs about animal welfare</p> <p>22 practices. And you were also asked about whether PETA</p> <p>23 had ever contacted Heinz about animal welfare</p> <p>24 practices.</p> <p>25 In fact, has PETA ever contacted Heinz</p>	<p style="text-align: right;">276</p> <p>1 trying to control costs?</p> <p>2 A Yes.</p> <p>3 MR. AHERN: That's all I have.</p> <p>4 MR. SCHWINGLER: I just have a couple</p> <p>5 questions.</p> <p>6 THE DEPONENT: Okay.</p> <p>7 EXAMINATION</p> <p>8 BY MR. SCHWINGLER:</p> <p>9 Q Just on the topic of PETA, my recollection</p> <p>10 is when I asked you whether PETA had contacted Heinz</p> <p>11 at some point in time about animal welfare standards</p> <p>12 related to egg-laying hens, that your answer was yes.</p> <p>13 And now I understand that your answer is</p> <p>14 no. Is that correct?</p> <p>15 A That's correct.</p> <p>16 Q What caused the change in your answer?</p> <p>17 A I was confused. I needed to straighten</p> <p>18 that out. That was not right. I'm sorry.</p> <p>19 Q But as you sit here right now, you're</p> <p>20 confident in your belief that it was the Humane</p> <p>21 Society that contacted PETA in 2011?</p> <p>22 MR. AHERN: Contacted --</p> <p>23 Q Contacted Heinz.</p> <p>24 A Yes.</p> <p>25 Q I believe you testified a moment ago that</p>
<p style="text-align: right;">275</p> <p>1 about animal welfare practices?</p> <p>2 A No.</p> <p>3 Q And was it HSUS that contacted Heinz?</p> <p>4 A Yes.</p> <p>5 Q And how recently had they contacted Heinz?</p> <p>6 A I believe that was the 2011.</p> <p>7 Q Okay. And you said that there was, that</p> <p>8 that resulted in a general statement being made that</p> <p>9 was posted on the website. Do you recall that?</p> <p>10 A Yes.</p> <p>11 Q And that was HSUS?</p> <p>12 A Yes, I believe so.</p> <p>13 Q Was that specific to eggs or did it just</p> <p>14 include eggs?</p> <p>15 A I think it was -- I think it was more</p> <p>16 general.</p> <p>17 Q Finally, you were asked if you were</p> <p>18 successful in achieving cost avoidances. And I think</p> <p>19 your answer was yes.</p> <p>20 A Uh-huh.</p> <p>21 Q Were you always successful in achieving</p> <p>22 cost avoidances?</p> <p>23 A No.</p> <p>24 Q Okay. Were there times when you, when you</p> <p>25 engaged in a strategy that was the wrong strategy for</p>	<p style="text-align: right;">277</p> <p>1 prior to October of 2007 Heinz had never entered into</p> <p>2 a fixed or locked in pricing arrangement with an egg</p> <p>3 product supplier; is that correct?</p> <p>4 A Yes.</p> <p>5 Q How did Heinz determine egg product prices</p> <p>6 before October of 2007? Let's just say from 2005</p> <p>7 until 2007.</p> <p>8 A It was like a pricing mechanism based off</p> <p>9 of Urner Barry, just a market pass-through.</p> <p>10 Q And did Heinz negotiate that pricing</p> <p>11 mechanism with each individual egg product supplier?</p> <p>12 A Yes.</p> <p>13 Q How frequently did Heinz -- let me ask it</p> <p>14 another way.</p> <p>15 Did Heinz enter into contracts with its egg</p> <p>16 product suppliers that established a pricing mechanism</p> <p>17 that would cover a particular period of time?</p> <p>18 A You know, I really don't know the answer to</p> <p>19 that. It may have just been open spot is what my true</p> <p>20 understanding is.</p> <p>21 Q And would Mr. Sirgo be the person I should</p> <p>22 ask about how Heinz procured its egg products from</p> <p>23 2005 to 2007?</p> <p>24 A Yes.</p> <p>25 MR. AHERN: Object to the form.</p>

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<p style="text-align: right;">278</p> <p>1 Q Let me ask it a better way. 2 If I wanted to understand how the prices 3 Heinz paid for egg products between 2005 and 2007 was 4 determined, should I talk to Mr. Sirgo about that 5 topic? 6 MR. AHERN: Hold on. She has already 7 testified to that. Object to the form. 8 A Well -- 9 Q Let me ask you a better question. 10 Is it your testimony that for all purchases 11 of egg product between 2005 and 2007 that Heinz 12 purchased on a spot basis? 13 A Yes. 14 Q And at no point prior to -- what about from 15 1999 to 2005? How did Heinz, how were the prices that 16 Heinz paid for egg products determined? 17 A It would have -- talking to Mauricio, it 18 was always just the market based spot pricing. 19 Q I showed you a document earlier that was, 20 that referenced a 2003 auction and part of the auction 21 included a request for quotation. 22 A Yes. 23 Q Why don't we pull that Exhibit up. I'm not 24 sure of the exact number off the top of my head. 25 Probably around number 9.</p>	<p style="text-align: right;">280</p> <p>1 requested in this. I didn't read it. 2 Q Sure, but the contract period is for one 3 year? 4 A Yes. 5 Q And so when you said earlier, when you 6 reference spot market purchases earlier, I just want 7 to understand what you mean by spot market. 8 A Okay. So spot market means moving with the 9 Urner Barry. As the Urner Barry changes, it's market 10 value, our price will move with it. 11 Q So when you say spot market, you just mean 12 the price is tied to the Urner Barry index? 13 A Yes, yes. 14 Q You don't mean that Heinz actually goes out 15 and buys products on -- 16 A No. 17 Q -- what might be called the spot market? 18 A No, no. 19 Q Okay. 20 A I would say, also, why I said we did not do 21 any fixed pricing is because, just because we did a 22 bid doesn't mean that anything was actually awarded 23 out of it. This just means that there was a bid. 24 Q So if the October 2007 time frame was the 25 first time you entered into a, you locked in a price</p>
<p style="text-align: right;">279</p> <p>1 MR. AHERN: It's 11. 2 Q 11. 3 A Yep. 4 Q Okay. And the, if I could just point you 5 to a specific page. 6 A Okay, please. 7 Q The page with bates number MFI 025838? 8 A Yep. 9 Q In the middle of the page near the top it 10 says "Contract Period." Do you see that? 11 A Yes. 12 Q And the contract period says July 1st, 2003 13 to June 30th, 2004; correct? 14 A Yes. 15 Q And so wouldn't you agree then that this 16 document relates to a request for quotation for 17 pricing formula that would be in place for a one year 18 period? 19 A Yes. 20 Q So the result of this auction, at least 21 what Heinz was trying to accomplish, was to develop or 22 enter into a contract that would set a pricing formula 23 that would be in place for the next 12 months? 24 A I mean, I'd have to read it to know if they 25 were asking for the formula, if that's what they</p>	<p style="text-align: right;">281</p> <p>1 for a period of several months, where did you get that 2 idea? 3 A From Mauricio probably. 4 Q But Mauricio had never done it? 5 A Well, it's not -- I mean it's a pretty 6 simple concept, of a way that you could keep a price 7 stable. 8 Q Why is it that Heinz decided in October of 9 2007 to lock in its pricing? What was it about that 10 time frame that caused Heinz to embark upon this new 11 way of buying eggs? 12 A Just months and months of price increases 13 and not being able to predict how much, you know, we 14 were going to be off from our budget. 15 Q Mr. Ahern asked you a series of questions 16 about whether you know whether, for example, grain 17 prices have an impact on egg prices, whether you know 18 whether bird housing conditions have an impact on egg 19 prices, whether you know whether UEP cage size 20 restrictions have an impact on egg prices. I want to 21 ask you a different question. 22 As part of your job as the egg buyer for 23 Heinz, you are supposed to keep track of movements in 24 egg product prices; correct? 25 A Yes.</p>

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<p style="text-align: right;">282</p> <p>1 Q In fact, that was a big part of your job; 2 wasn't it?</p> <p>3 MR. AHERN: Object to the form.</p> <p>4 A Yeah.</p> <p>5 Q And to be fully informed about, and to be 6 able to better predict where egg prices might move, 7 you also tried to educate yourself on what things 8 might impact egg prices; correct?</p> <p>9 MR. AHERN: Object to the form.</p> <p>10 A I would say talk to suppliers and, you 11 know, use Informa to see what they are talking about.</p> <p>12 Q But you were trying to figure out where egg 13 prices would go; correct?</p> <p>14 MR. AHERN: Object to the form.</p> <p>15 A Yes.</p> <p>16 Q And so part of your objective or part of 17 your job responsibilities was to develop an 18 understanding of the factors that could impact egg 19 prices; correct?</p> <p>20 MR. AHERN: Object to the form.</p> <p>21 A I would say that was what they wanted me to 22 do, yes.</p> <p>23 Q And, in fact, you did develop an 24 understanding of some of the major factors that, in 25 fact, impact egg product prices; correct?</p>	<p style="text-align: right;">284</p> <p>1 would influence pricing.</p> <p>2 Q And you did, you know, you did your best to 3 develop an understanding about what impacted egg 4 prices; correct?</p> <p>5 MR. AHERN: Object to the form.</p> <p>6 A To the degree that it would affect Heinz, 7 yeah.</p> <p>8 Q When you say to the degree that it would 9 affect Heinz, do you mean that you developed, you 10 obtained the information that you thought was 11 necessary so you could best serve Heinz in buying egg 12 products?</p> <p>13 MR. AHERN: Object to the form.</p> <p>14 A Yes.</p> <p>15 Q And you obtained the information that you 16 thought was necessary so you could make the best 17 possible decision on Heinz's behalf?</p> <p>18 MR. AHERN: Same objection.</p> <p>19 A Yes.</p> <p>20 Q Okay. You mentioned that Food Safety 21 Policy has no animal welfare component or that there 22 is no animal welfare component to any Food Safety 23 Policy specifically for egg products; correct?</p> <p>24 A Yes.</p> <p>25 Q Can you pull up that vendor questionnaire</p>
<p style="text-align: right;">283</p> <p>1 MR. AHERN: Object to the form.</p> <p>2 A I would say I would talk to other people 3 and they would tell me what they think the factors 4 are.</p> <p>5 Q Yes, but through those conversations and 6 through the documents that were provided to you by 7 Informa and other sources, you at least developed an 8 understanding of the types of things that impacted egg 9 product prices; correct?</p> <p>10 MR. AHERN: Object to the form.</p> <p>11 A I would say there is necessarily factors, 12 but I'm not an expert. I'm not an egg producer.</p> <p>13 Q I'm not asking whether you know to 100 14 percent certainty exactly how different things impact 15 egg prices. I'm just asking that as part of your job 16 as the egg buyer, you were supposed to develop an 17 understanding of the different things that could 18 impact egg prices?</p> <p>19 MR. AHERN: Object to the form.</p> <p>20 A Yes.</p> <p>21 Q You needed that understanding in order to 22 do your job?</p> <p>23 MR. AHERN: Same objection.</p> <p>24 Q Correct?</p> <p>25 A I would want to know different factors that</p>	<p style="text-align: right;">285</p> <p>1 again? I want to say it's around Exhibit 32, but my 2 numbering got off in my notes.</p> <p>3 A Is it this one?</p> <p>4 Q No, probably the one before that. 30, 5 there we go.</p> <p>6 A Okay.</p> <p>7 Q So if you go through Exhibit 30, if you 8 recall, the first page of Exhibit 30 was the global 9 table of contents?</p> <p>10 A Yes.</p> <p>11 Q Second page was a printout of the North 12 America table of contents. The third page was a 13 printout of the table entitled Egg Products.</p> <p>14 And the way you get to that is by clicking 15 on, from the global table first on North America and 16 then on egg products.</p> <p>17 A Uh-huh, yeah.</p> <p>18 Q Does this document refer to husbandry and 19 welfare?</p> <p>20 A It does say that, yes.</p> <p>21 MR. AHERN: Just an objection. You started 22 your questioning by talking about the Food Safety 23 Policy and now you're talking about the vendor 24 questionnaire.</p> <p>25 MR. SCHWINGLER: That's a fair objection.</p>

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<p style="text-align: right;">286</p> <p>1 Q Let me -- I'm not going to withdraw the 2 question, but I'll move on. 3 I believe you testified that Heinz has no 4 specific position about how eggs or egg products 5 should be produced, as least as it relates to animal 6 welfare? 7 A Right. 8 Q Is that true for Heinz Europe as well? 9 A I'm not aware of their policy. 10 Q So your testimony was limited simply to 11 Heinz North America? 12 A Yes. 13 Q Would Heinz tolerate -- would Heinz 14 continue to do business with an egg product supplier 15 if it was discovered that that supplier had been 16 abusing the animals that produced the eggs going into 17 Heinz's products? 18 MR. AHERN: Object to the form. 19 A I would say there would be some kind of 20 investigation to find out more about it. It certainly 21 wouldn't be a good thing. 22 Q When you say Heinz has no specific position 23 about animal welfare standards for eggs or egg 24 products, that doesn't mean that Heinz is perfectly 25 fine with any possible treatment of hens; correct?</p>	<p style="text-align: right;">288</p> <p>1 contract? 2 A That's pretty standard in any kind of 3 industry that there are some premiums if you are going 4 to lock a position. 5 Q I understand that that's the, that 6 suppliers may require that. My question is why was 7 Heinz willing to pay that? 8 A For predictability in price. 9 Q So Heinz was willing to pay more than 10 market, at least more than the current market price in 11 order to get that guaranteed price for six months into 12 the future? 13 A Right. 14 Q And it's fair to say Heinz was not 15 expecting egg prices to drop significantly at that 16 point in time? 17 A Yes. 18 Q Mr. Ahern asked you about grain-based 19 pricing, and I may have misheard you are earlier, but 20 I just wanted to clarify a little discrepancy I think 21 in your answer about stability. 22 When Mr. Ahern asked you about grain-based 23 pricing and how it leads to stability, you answered 24 that grain-based pricing is stable if the underlying 25 grain crop is stable.</p>
<p style="text-align: right;">287</p> <p>1 MR. AHERN: Object to the form. 2 A I feel like that's very vague. 3 Q Let me ask a better question. 4 Does Heinz condone the abuse of animals? 5 MR. AHERN: Object to the form. 6 A No. 7 Q So I guess what I'm asking is just because 8 Heinz doesn't have a specific position on animal 9 welfare standard for egg-laying hens, it's not true 10 that Heinz's suppliers are free to abuse their 11 animals? 12 MR. AHERN: Object to the form. 13 A No, they are not. 14 Q Okay. You testified about how the 15 locked-in price or the fixed price from October of '07 16 to April of '08 was determined. I believe you said 17 that that price did have a relationship to the Urner 18 Barry price. And that that relationship was Heinz 19 took the Urner Barry price at the time the contract 20 was entered as a starting point and then negotiated a 21 premium above that price in order to result in that 22 six month locked price; correct? 23 A Correct. 24 Q Why was Heinz willing to pay a premium over 25 the market price in order to lock in a longer term</p>	<p style="text-align: right;">289</p> <p>1 A Yep. 2 Q But before we talked about the ability to 3 hedge grain market; correct? 4 A Right. 5 Q And the ability to take a futures position 6 in grain markets. 7 A Uh-huh. 8 Q And isn't that how one achieves stability 9 using grain-based pricing? 10 MR. AHERN: Object to the form. 11 A It can, but they might not want to hedge. 12 Q Sure, but if you entered -- if one were to 13 enter a grain-based contract and didn't hedge, then I 14 understand your testimony to be that the pricing would 15 be stable only if the grain prices were stable? 16 MR. AHERN: Object to the form. 17 Q Is that correct? 18 A Yes. 19 Q Okay. What I'm asking is different, 20 though. 21 If an egg product supplier approached Heinz 22 and said we're offering grain-based pricing and one of 23 the advantages of grain-based pricing is it's possible 24 to hedge grain markets and so by entering into a grain 25 based contract and hedging, you are guaranteed a</p>

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<p style="text-align: right;">290</p> <p>1 stable price, wouldn't you agree that that is the</p> <p>2 logic behind grain-based pricing?</p> <p>3 MR. AHERN: Object to the form.</p> <p>4 A I think that that makes sense. But we</p> <p>5 would also consider would we want to hedge or would we</p> <p>6 be better off letting the grains stay open because</p> <p>7 maybe they will come down or maybe we just -- you</p> <p>8 know, we think the egg market is going to come down</p> <p>9 and we don't want to walk into that. So you have</p> <p>10 other things to consider.</p> <p>11 Q You testified, I believe, that prior to the</p> <p>12 Golden Oval proposal we discussed earlier, no producer</p> <p>13 had actually presented a grain-based pricing proposal</p> <p>14 to Heinz?</p> <p>15 A Right.</p> <p>16 Q But in summer of 2007 Michael Foods did</p> <p>17 approach you personally about at least beginning a</p> <p>18 discussion related to grain-based pricing; correct?</p> <p>19 MR. AHERN: Object to the form.</p> <p>20 A Yes.</p> <p>21 Q And I believe you testified earlier that</p> <p>22 you don't recall whether you ever had that discussion</p> <p>23 with Michael Foods?</p> <p>24 A I mean I saw it in the e-mail. I was only</p> <p>25 two months in the job. If we did talk about it, you</p>	<p style="text-align: right;">292</p> <p>1 Q -- is that the page that references animal</p> <p>2 welfare?</p> <p>3 A No. It's the second to the last page.</p> <p>4 Yeah. No, there is nothing for egg products.</p> <p>5 MR. AHERN: His question was different.</p> <p>6 A I'm sorry.</p> <p>7 Q I understand that there was no animal</p> <p>8 welfare policy specifically for egg products, but did</p> <p>9 Heinz have an animal welfare requirement for other</p> <p>10 animal products?</p> <p>11 A I see. I see. It does have the statement</p> <p>12 here about the humane methods of slaughter for, you</p> <p>13 know, for other animals, looks like.</p> <p>14 Q Would that include poultry?</p> <p>15 A Yes.</p> <p>16 Q And to your knowledge, would that</p> <p>17 slaughter, would that requirement of humane methods of</p> <p>18 slaughter apply to the egg-laying hens who produced</p> <p>19 the eggs that ultimately became the egg products that</p> <p>20 were sold to Heinz?</p> <p>21 MR. AHERN: Object to the form.</p> <p>22 A I mean to me it's separate. I mean, I'm</p> <p>23 not saying they were against it or anything, but meat</p> <p>24 and poultry is like separate from eggs to me. So it</p> <p>25 doesn't necessarily cover it, no. I don't know.</p>
<p style="text-align: right;">291</p> <p>1 know, I don't recall it at all.</p> <p>2 Q In your Food Safety Policy, circling back</p> <p>3 on the, my question from before, you testified that</p> <p>4 there is no animal welfare component to any of Heinz's</p> <p>5 food safety policies as it relates to egg products</p> <p>6 specifically?</p> <p>7 A No, there isn't.</p> <p>8 Q Does the Food Safety Policy include an</p> <p>9 animal welfare component for any other products?</p> <p>10 MR. AHERN: Object to the form.</p> <p>11 A Can I look back at this?</p> <p>12 Q Yes. You may. And you're referring to?</p> <p>13 A This was the animal -- no.</p> <p>14 Q The Exhibit that had the --</p> <p>15 A There was one on food safety, wasn't there?</p> <p>16 Q 2004 document.</p> <p>17 A Here it is. Yeah. This one.</p> <p>18 Q So we're looking at Exhibit --</p> <p>19 A 29.</p> <p>20 Q 29, for the record.</p> <p>21 A It's a Food Safety Policy for Meat and</p> <p>22 Poultry.</p> <p>23 Q So I believe if you turn to the last page</p> <p>24 of that Exhibit --</p> <p>25 A Okay.</p>	<p style="text-align: right;">293</p> <p>1 Q I'm just asking you now, do you know for a</p> <p>2 fact that that requirement for humane slaughter of</p> <p>3 poultry is exclusive of the egg product suppliers?</p> <p>4 MR. AHERN: Object to the form, asked and</p> <p>5 answered. She just testified it was separate.</p> <p>6 MR. SCHWINGLER: I'm asking whether she</p> <p>7 knows. Based on her answer, it seems like she</p> <p>8 was trying to infer.</p> <p>9 Q Do you know one way or another whether that</p> <p>10 policy definitively does not apply to egg-laying hens</p> <p>11 owned by the egg product suppliers?</p> <p>12 MR. AHERN: Objection, asked and answered.</p> <p>13 A I don't know.</p> <p>14 Q You don't know?</p> <p>15 A I'm not 100 percent certain.</p> <p>16 Q Okay.</p> <p>17 MR. SCHWINGLER: I have no more questions.</p> <p>18 MR. AHERN: Let's go off the record for one</p> <p>19 second.</p> <p>20 VIDEOGRAPHER: This ends tape number 7. We</p> <p>21 are off the record. The time is 5:44 p.m.</p> <p>22 (Off the record.)</p> <p>23 VIDEOGRAPHER: This begins tape number 8 of</p> <p>24 the deposition of Michelle Kamzalow. We are on</p> <p>25 the record. The time is 5:46 p.m.</p>

HIGHLY CONFIDENTIAL

Kamzalow, Michelle

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<p style="text-align: right;">294</p> <p>1 MR. AHERN: Just want to say that I have no 2 further questions and we will designate the 3 transcript as Highly Confidential. 4 MR. SCHWINGLER: Understood. 5 VIDEOGRAPHER: This ends the deposition. 6 We are off the record. The time is 5:47 p.m. 7 (THEREUPON, at 5:47 o'clock p.m., the 8 deposition was concluded.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">296</p> <p>1 C-E-R-T-I-F-I-C-A-T-E 2 COMMONWEALTH OF PENNSYLVANIA,) 3) SS: 4 COUNTY OF ALLEGHENY:) 5 I, Deborah L. Endler, do hereby certify that 6 before me, a Notary Public in and for the Commonwealth 7 aforesaid, personally appeared MICHELLE KAMZALOW, who 8 then was by me first duly cautioned and sworn to 9 testify the truth, the whole truth, and nothing but 10 the truth in the taking of her oral deposition in the 11 cause aforesaid; that the testimony then given by 12 her as above set forth was by me reduced to stenotypy 13 in the presence of said witness, and afterwards 14 transcribed by means of computer-aided transcription. 15 I do further certify that this deposition was 16 taken at the time and place in the foregoing caption 17 specified, and was completed without adjournment. 18 I do further certify that I am not a relative, 19 counsel or attorney of either party, or otherwise 20 interested in the event of this action. 21 IN WITNESS WHEREOF, I have hereunto set my hand 22 and affixed my seal of office at Pittsburgh, 23 Pennsylvania, on this ____ day of 24 _____, 2014. 25 _____ Deborah L. Endler, Notary Public In and for the Commonwealth of Pennsylvania My commission expires November 2, 2016 - - -</p>
<p style="text-align: right;">295</p> <p>1 SIGNATURE PAGE 2 3 4 5 _____ 6 MICHELLE KAMZALOW 7 8 Subscribed and sworn to before me this 9 10 11 _____ of _____, 2014. 12 13 14 15 16 _____ 17 Notary Public 18 - - - 19 20 21 22 23 24 25</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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